MONTANA LEGISLATIVE HISTORY

Chapter 743 19 1985

Bill H 240 S _____ Original bill & history X C

H. Committee on Taxation			S. Committee on Tax		
Hearing Date(s)	2/1	X C	Hearing Date(s)	4/25	X C
	3/28	X C			C
		C			C
		C			C
Date Out		C			

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

HOUSE BILL NO. 240

INTRODUCED BY RAMIREZ, CRIPPEN, B. BROWN

BY REQUEST OF THE REVENUE OVERSIGHT COMMITTEE

IN THE HOUSE

January 17, 1985	Introduced and referred to Committee on Taxation.
January 21, 1985	Fiscal Note requested.
January 25, 1985	Fiscal Note returned.
April 17, 1985	On motion, taken from Committee on Taxation and referred to second reading on the 84th Legislative Day.
April 18, 1985	Second reading, pass consideration as amended.
April 19, 1985	Second reading, do pass.
	Statement of Intent attached.
April 20, 1985	Correctly engrossed.
April 22, 1985	Third reading, passed.
	Transmitted to Senate.

IN THE SENATE

April 25, 1985	On motion, rules suspended to introduce and accept HB 240. Motion adopted.
	Introduced and referred to Committee on Taxation.
	Committee recommend bill be concurred in as amended. Report adopted.

April 25, 1985 — Second reading, concurred in.

Third reading, concurred in. Ayes, 29; Noes, 21.

Returned to House with amendments.

IN THE HOUSE

April 25, 1985 — Received from Senate.

On motion, rules suspended to allow Senate amendments placed on second reading.

Second reading, amendments concurred in.

Third reading, amendments concurred in.

Sent to enrolling.

Reported correctly enrolled.

	TRANSMITTED TO SENATE		
2/22	REFERRED TO LOCAL GOVERNMENT		
3/07	HEARING		
3/18	COMM REPORT-BILL CONCURRED AS AMENDED		
3/21	2ND READING CONCURRED	48	0
3/23	3RD READING CONCURRED	47	2
	RETURNED TO HOUSE WITH AMENDMENTS		
4/02	2ND READING AMENDMENTS CONCURRED	83	10
4/03	3RD READING AMENDMENTS CONCURRED	89	8
4/08	SIGNED BY SPEAKER		
4/08	SIGNED BY PRESIDENT		
4/09	TRANSMITTED TO GOVERNOR		
4/10	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 425 EFFECTIVE DATE: 10/01/85		

HB 240 INTRODUCED BY RAMIREZ, CRIPPEN, B. BROWN
PROPERTY CLASSIFICATION REVISIONS TO COMPLY WITH FEDERAL LAW; REALTY 1 CLASS
BY REQUEST OF REVENUE OVERSIGHT COMMITTEE

1/17	INTRODUCED		
1/17	REFERRED TO TAXATION		
1/21	FISCAL NOTE REQUESTED		
1/26	FISCAL NOTE RECEIVED		
2/01	HEARING		
4/19	2ND READING PASS	92	5
4/19	STATEMENT OF INTENT ATTACHED		
4/22	3RD READING PASS	93	1
	TRANSMITTED TO SENATE		
4/25	ON MOTION RULES SUSPENDED TO ACCEPT FOR CONSIDERATION	48	2
4/25	REFERRED TO TAXATION		
4/25	HEARING		
4/25	COMM REPORT-BILL CONCURRED AS AMENDED		
4/25	2ND READING CONCURRED	30	20
4/25	3RD READING CONCURRED	29	21
	RETURNED TO HOUSE WITH AMENDMENTS		
4/25	ON MOTION RULES SUSPENDED TO ALLOW SENATE AMENDMENTS		
4/25	2ND READING AMENDMENTS CONCURRED	52	48
4/25	3RD READING AMENDMENTS CONCURRED	53	47
5/01	SIGNED BY SPEAKER		
5/01	SIGNED BY PRESIDENT		
5/02	TRANSMITTED TO GOVERNOR		
5/24	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 743 EFFECTIVE DATE: 1/1/86 SECTIONS 10 AND 12 EFFECTIVE 5/24/85		

HB 241 INTRODUCED BY KADAS, ECK, ET AL.
PRORATION OF PROPERTY TAXES WHEN MOVING A MOBILE HOME

1/17	INTRODUCED		
1/17	REFERRED TO TAXATION		

HOUSE BILL NO. 240

INTRODUCED BY Ramirez, Coppin, Bob Brown

BY REQUEST OF THE REVENUE OVERSIGHT COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE MONTANA PROPERTY TAX CLASSIFICATION LAW TO COMPLY WITH FEDERAL LAW GRANTING CERTAIN TYPES OF PROPERTY SPECIAL CONSIDERATION; REQUIRING THE DEPARTMENT OF REVENUE TO ANNUALLY REVALUE ALL COMMERCIAL AND INDUSTRIAL PROPERTY; REQUIRING THE DEPARTMENT OF REVENUE TO CONDUCT AUDITS OF ASSESSMENTS ON CLASS FOUR AND CLASS NINE PROPERTY AND IMPROVEMENTS; REQUIRING THE DEPARTMENT OF REVENUE TO ANNUALLY DETERMINE THE TAXABLE PERCENTAGE RATE APPLICABLE TO CLASS FOUR REAL PROPERTY AND IMPROVEMENTS TO RESULT IN A ZERO PERCENTAGE INCREASE IN THE STATEWIDE TAXABLE VALUE OF SUCH PROPERTY; DEFINING THE TERM "COMMERCIAL" AS IT APPLIES TO PROPERTY SUBJECT TO TAXATION; CLARIFYING THE TERM "MARKET VALUE" FOR PROPERTY TAX PURPOSES; AMENDING SECTIONS 15-1-101, 15-6-101, 15-6-134, 15-6-135, 15-6-137 THROUGH 15-6-141, 15-6-151, 15-7-111, 15-7-202, 15-7-307, 15-8-104, 15-8-111, 15-16-611, AND 15-23-202, MCA; REPEALING SECTION 15-6-142, MCA; AND PROVIDING EFFECTIVE DATES."

WHEREAS, the federal government has granted special consideration to certain types of property with respect to property taxation; and

WHEREAS, the Legislature and the people of the State of Montana desire to be in full compliance with all federal law; and

WHEREAS, there have been questions in the past regarding the validity of Montana's property tax classification laws with respect to federal law granting special consideration to certain types of property; and

WHEREAS, state tax policy is best determined by the state's primary policymaking body, which is the Legislature; and

WHEREAS, the Legislature wishes to retain as much as possible the sovereignty guaranteed to the state by the 10th amendment to the Constitution of the United States; and

WHEREAS, the 48th Legislature of the State of Montana adopted House Joint Resolution 31, requiring a study of Montana's property tax classification system; and

WHEREAS, the Revenue Oversight Committee has examined Montana's property tax system; and

WHEREAS, that examination causes the Revenue Oversight Committee to recommend a general revision of Montana's property tax classification system.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 15-1-101, MCA, is amended to read:

"15-1-101. Definitions. (1) When terms mentioned in this section are used in connection with taxation, they are defined in the following manner:

(a) The term "agricultural" refers to the raising of livestock, swine, poultry, field crops, fruit, and other animal and vegetable matter for food or fiber.

(b) The term "assessed value" means the value of property as defined in 15-8-111.

(c) The term "average wholesale value" means the value to a dealer prior to reconditioning and profit margin shown in national appraisal guides and manuals or the valuation schedules of the department of revenue.

(d) The term "commercial", when used to describe property, means any property used or owned by a business, a trade, or a nonprofit corporation as defined in 35-2-102 or used for the production of income.

~~(d)~~(e) The term "credit" means solvent debts, secured or unsecured, owing to a person.

~~(e)~~(f) The term "improvements" includes all buildings, structures, ~~fixtures,~~ fences, and improvements situated upon, erected upon, or affixed to land. When the department of revenue or its agent determines that the permanency of location of a mobile home or housetrailer has been established, the mobile home or housetrailer is presumed to be an improvement to real property. A mobile home or

housetrailer may be determined to be permanently located only when it is attached to a foundation which cannot feasibly be relocated and only when the wheels are removed.

~~(f)~~(g) The term "leasehold improvements" means improvements to mobile homes and mobile homes located on land owned by another person. This property is assessed under the appropriate classification and the taxes are due and payable in two payments as provided in 15-24-202. Delinquent taxes on such leasehold improvements are a lien only on such leasehold improvements.

~~(g)~~(h) The term "mobile home" means forms of housing known as "trailers", "housetrailers", or "trailer coaches" exceeding 8 feet in width or 45 feet in length, designed to be moved from one place to another by an independent power connected to them, or any "trailer", "housetrailer", or "trailer coach" up to 8 feet in width or 45 feet in length used as a principal residence.

~~(h)~~(i) The term "personal property" includes everything that is the subject of ownership but that is not included within the meaning of the terms "real estate" and "improvements".

~~(i)~~(j) The term "poultry" includes all chickens, turkeys, geese, ducks, and other birds raised in domestication to produce food or feathers.

~~(j)~~(k) The term "property" includes moneys, credits,

bonds, stocks, franchises, and all other matters and things, real, personal, and mixed, capable of private ownership. This definition must not be construed to authorize the taxation of the stocks of any company or corporation when the property of such company or corporation represented by the stocks is within the state and has been taxed.

~~(k)~~(l) The term "real estate" includes:

(i) the possession of, claim to, ownership of, or right to the possession of land;

(ii) all mines, minerals, and quarries in and under the land subject to the provisions of 15-23-501 and 15-23-801; all timber belonging to individuals or corporations growing or being on the lands of the United States; and all rights and privileges appertaining thereto.

~~(l)~~(m) The term "taxable value" means the percentage of market or assessed value as provided for in 15-6-131 through 15-6-140.

(2) The phrase "municipal corporation" or "municipality" or "taxing unit" shall be deemed to include a county, city, incorporated town, township, school district, irrigation district, drainage district, or any person, persons, or organized body authorized by law to establish tax levies for the purpose of raising public revenue.

(3) The term "state board" or "board" when used without other qualification shall mean the state tax appeal

board."

Section 2. Section 15-6-101, MCA, is amended to read:

"15-6-101. ~~Property~~ Purpose -- property subject to taxation -- classification. (1) It is the purpose of this chapter to comply with federal law requiring special consideration of certain types of property. To meet the requirements of federal law, the legislature finds it necessary to separate the several types of property into classes, each class containing property reasonably related to other property in the same class and reasonably different from property in every other class. It is further the purpose of this chapter and the policy of the legislature to treat all similar property subject to taxation in an equitable manner.

~~(1)~~(2) All property in this state is subject to taxation, except as provided otherwise.

~~(2)~~(3) For the purpose of taxation, the taxable property in the state shall be classified in accordance with ~~15-6-131 through 15-6-141~~ this part."

Section 3. Section 15-6-134, MCA, is amended to read:

"15-6-134. Class four property -- description -- taxable percentage. (1) Class four property includes:

(a) all land, including, for farm homes, 1 acre of agricultural land at market value, except that specifically included in another class;

(b) all improvements except those specifically included in another class;

(c) a trailer or mobile home used as a residence except when:

(i) held by a distributor or dealer of trailers or mobile homes as his stock in trade; or

(ii) specifically included in another class;

~~(c)~~(d) the first $35,000 or less of the market value of any improvement on real property and appurtenant land not exceeding 5 acres owned or under contract for deed and actually occupied for at least 10 months a year as the primary residential dwelling of:

(i) a widow or widower 62 years of age or older who qualifies under the income limitations of (iii) of this subsection;

(ii) a widow or widower of any age with dependent children who qualifies under the income limitations of (iii) of this subsection; or

(iii) a recipient or recipients of retirement or disability benefits whose total income from all sources including otherwise tax-exempt income of all types is not more than $8,000 for a single person or $10,000 for a married couple;

(e) the first $35,000 or less of the market value of a trailer or mobile home used as a residence and actually

occupied for at least 10 months a year as the primary dwelling of any person described in subsections (1)(d)(i) through (1)(d)(iii);

~~(d)~~(f) all golf courses, including land and improvements actually and necessarily used for that purpose, that:

(i) consist of at least 9 holes and not less than 3,000 lineal yards; and

(ii) were used as a golf course on January 1, 1979, and were owned by a nonprofit Montana corporation.

(2) Class four property is taxed as follows:

(a) ~~Except as provided in 15-24-1402 or 15-24-1501,~~ property Property described in subsections (1)(a) ~~and (1)(b)~~ through (1)(c) is taxed at ~~0.55%~~ the taxable percentage rate "P" of its market value.

(b) Property described in ~~subsection (1)(c)~~ subsections (1)(d) and (1)(e) is taxed at ~~0.55%~~ the taxable percentage rate "P" of its market value multiplied by a percentage figure based on income and determined from the following table:

Income Single Person	Income Married Couple	Percentage Multiplier
$0 - $1,000	$0 - $1,000	0%
1,001 - 2,000	1,001 - 2,000	10%
2,001 - 2,800	2,001 - 3,000	20%

2,801 - 3,600	3,001 - 4,000	30%
3,601 - 4,400	4,001 - 5,000	40%
4,401 - 5,200	5,001 - 6,000	50%
5,201 - 6,000	6,001 - 7,000	60%
6,001 - 6,800	7,001 - 8,000	70%
6,801 - 7,600	8,001 - 9,000	80%
7,601 - 8,000	9,001 - 10,000	90%

(c) Property described in subsection ~~(1)(d)~~ (1)(f) is taxed at one-half the taxable percentage ~~established in subsection (2)(a), or 4.275%~~ rate "P".

(3) Until July 1, 1986, the taxable percentage rate "P" for class four property is 8.55%.

(4) For 1986 and every year thereafter, the department of revenue shall, before July 1 of each year, determine the taxable percentage rate "P" applicable to class four property. The determination shall be made as provided in subsection (5).

(5) P = A/(1 + B), where:

(a) P is the taxable percentage rate applicable to class four property for the fiscal year beginning July 1 in the year in which P is calculated;

(b) A is the taxable percentage rate P applicable to class four property as established by the department for the immediately preceding year; and

(c) B is the certified statewide percentage increase

to be determined by the department as provided in subsection (6).

(6) The director of the department of revenue shall certify to the governor before July 1 of each year the percentage by which the appraised value of all property in the state classified under class four as of January 1 of the same year has increased due to the revaluation conducted under 15-7-111(2). This figure is the "certified statewide percentage increase"."

Section 4. Section 15-6-135, MCA, is amended to read:

"15-6-135. Class five property -- description -- taxable percentage. (1) Class five property includes:

(a) all property used and owned by cooperative rural electrical and cooperative rural telephone associations organized under the laws of Montana, except property described in 15-6-139(1)(u) owned by cooperative organizations ~~described in subsection (1)(c) of 15-6-137~~;

(b) air and water pollution control equipment as defined in this section;

(c) new industrial property as defined in this section;

(d) any personal or real property used primarily in the production of gasohol during construction and for the first 3 years of its operation.

(2) (a) "Air and water pollution equipment" means

facilities, machinery, or equipment used to reduce or control water or atmospheric pollution or contamination by removing, reducing, altering, disposing, or storing pollutants, contaminants, wastes, or heat. The department of health and environmental sciences shall determine if such utilization is being made.

(b) The department of health and environmental sciences' determination as to air and water pollution equipment may be appealed to the board of health and environmental sciences and may not be appealed to either a county tax appeal board or the state tax appeal board. However, the appraised value of the equipment as determined by the department of revenue may be appealed to the county tax appeal board and the state tax appeal board.

(3) "New industrial property" means any new industrial plant, including land, buildings, machinery, and fixtures, used by new industries during the first 3 years of their operation. The property may not have been assessed within the state of Montana prior to July 1, 1961.

(4) (a) "New industry" means any person, corporation, firm, partnership, association, or other group that establishes a new plant in Montana for the operation of a new industrial endeavor, as distinguished from a mere expansion, reorganization, or merger of an existing industry.

(b) New industry includes only those industries that:

(i) manufacture, mill, mine, produce, process, or fabricate materials;

(ii) do similar work, employing capital and labor, in which materials unserviceable in their natural state are extracted, processed, or made fit for use or are substantially altered or treated so as to create commercial products or materials; or

(iii) engage in the mechanical or chemical transformation of materials or substances into new products in the manner defined as manufacturing in the 1972 Standard Industrial Classification Manual prepared by the United States office of management and budget.

(5) New industrial property does not include:

(a) property used by retail or wholesale merchants, commercial services of any type, agriculture, trades, or professions;

(b) a plant that will create adverse impact on existing state, county, or municipal services; or

(c) property used or employed in any industrial plant that has been in operation in this state for 3 years or longer.

(6) Class five property is taxed at 3% of its market value."

Section 5. Section 15-6-137, MCA, is amended to read:

"15-6-137. Class seven property -- description -- taxable percentage. (1) Class seven property includes:

(a) all property ~~used--and--owned-by-persons,-firms,-corporations,-or-other-organizations-that-are-engaged-in-the-business-of-furnishing-telephone-communications--exclusively-to-rural-areas-or-to-rural-areas-and-cities-and-towns-of-800-persons-or-less;~~

~~(b)--all-property-owned-by-cooperative-rural-electrical-and-cooperative-rural-telephone-associations-that-serve-less-than--95%--of--the--electricity-consumers-or-telephone-users-within-the-incorporated-limits-of-a-city-or-town;~~

~~(c)--electric-transformers-and-meters,--electric--light-and--power--substation--machinery,-natural-gas-measuring-and-regulating-station-equipment,-meters,-and-compressor-station-machinery-owned-by-noncentrally-assessed--public--utilities,-and--tools--used--in--the--repair--and--maintenance--of-this-property;-and~~

~~(d)--tools,-implements,-and-machinery--used--to--repair-and-maintain-machinery-not-used-for-manufacturing-and-mining-purposes.~~

~~(2)--To--qualify--for--this-classification,-the-average-circuit--miles---for---each---station---on---the---telephone-communication--system-described-in-subsection-(1)(b)-must-be-more-than-1-mile;~~ used for noncommercial purposes which is not real property or an improvement to real property and which is not in another class or exempt from taxation under Title 15, chapter 6, part 2; and

(b) all agricultural tools, machinery, and equipment used in a bona fide farm, ranch, or stock operation.

~~(3)~~(2) Class seven property is taxed at ~~0%~~ 11.1% of its market value."

Section 6. Section 15-6-138, MCA, is amended to read:

"15-6-138. Class eight property -- description -- taxable percentage. (1) Class eight property includes:

~~(a)~~ all ~~agricultural---implements--and--equipment,~~ commercial timberland.

~~(b)--all-mining-machinery,-fixtures,-equipment,--tools,-and-supplies-except:~~

~~(i)--those-included-in-class-five;-and~~

~~(ii)-coal-and-ore-haulers;~~

~~(c)--all--manufacturing-machinery,-fixtures,-equipment,-tools,-and-supplies-except-those-included-in-class-five;~~

~~(d)--motorcycles;~~

~~(e)--watercraft;~~

~~(f)--all-trailers-up-to--and--including--18,000--pounds-maximum--gross--loaded-weight,-except-those-subject-to-a-fee-in-lieu-of-property-tax;~~

~~(g)--aircraft;~~

~~(h)--all-terrain-vehicles;~~

~~(i)--harness,-saddlery,-and-other-tack-equipment;~~

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~~(j)--all-goods--and--equipment--intended--for--rent--or lease,--except-goods-and-equipment-specifically-included-and taxed-in-another-class;-and~~

~~(k)--all--other--machinery--except--that---specifically included-in-another-class.~~

(2) Commercial timberland is all land in one ownership and from which is harvested 30,000 or more board feet in any year during the appraisal cycle.

~~(2)~~(3) Class eight property is taxed at ~~11%~~ 30% of ~~its market--value~~ the combined appraised value of the standing timber and grazing productivity of the property."

Section 7. Section 15-6-139, MCA, is amended to read:

"15-6-139. Class nine property -- description -- taxable percentage. (1) Class nine property is all property used for commercial purposes that is not real property or an improvement to real property and which is not included in another class or exempt from taxation under Title 15, chapter 6, part 2, and includes:

(a) buses and trucks having a rated capacity of more than three-quarters of a ton ~~but-less-than-or-equal-to-1-1/2 tons~~;

(b) truck toppers weighing more than 300 pounds;

(c) furniture, fixtures, and equipment, except that specifically included in another class, used in commercial establishments as defined in this section;

(d) x-ray and medical and dental equipment; and

(e) citizens' band radios and mobile telephones~~.~~;

(f) all mining machinery, fixtures, equipment, tools, and supplies except those included in class five;

(g) all manufacturing machinery, fixtures, equipment, tools, and supplies except those included in class five;

(h) motorcycles;

(i) watercraft;

(j) all trailers up to and including 18,000 pounds maximum gross loaded weight, except those subject to a fee in lieu of property tax;

(k) aircraft;

(l) all-terrain vehicles;

(m) harness, saddlery, and other tack equipment;

(n) all goods and equipment intended for rent or lease, except goods and equipment specifically included and taxed in another class;

(o) all other machinery except that specifically included in another class;

(p) radio and television broadcasting and transmitting equipment;

(q) cable television systems;

(r) coal and ore haulers;

(s) all trailers exceeding 18,000 pounds maximum gross loaded weight, including those prorated under 15-24-102 and

except those subject to a fee in lieu of property tax;

(t) theater projectors and sound equipment;

(u) electric transformers and meters; electric light and power substation machinery; natural gas measuring and regulating station equipment, meters, and compressor station machinery owned by noncentrally assessed public utilities; and tools used in the repair and maintenance of this property;

(v) tools, implements, and machinery used to repair and maintain machinery not used in a bona fide agricultural operation or for manufacturing or mining purposes; and

(w) all other property not included in any other class except that property subject to a fee in lieu of a property tax and property exempt from taxation.

(2) "Commercial establishment" includes any hotel; motel; office; petroleum marketing station; or service, wholesale, retail, or food-handling business.

(3) Class nine property is taxed at ~~13%~~ 11.7% of its market value."

Section 8. Section 15-6-140, MCA, is amended to read:

"15-6-140. Class ten property -- description -- taxable percentage. (1) Class ten property includes:

~~(a)--radio-and-television-broadcasting-and-transmitting equipment;~~

~~(b)--cable-television-systems;~~

~~(c)--coal-and-ore-haulers;~~

~~(d)--trucks-having-a-rated-capacity-of-more-than--1-1/2 tons,-including-those-prorated-under-15-24-102;~~

~~(e)--all-trailers-exceeding-18,000-pounds-maximum-gross loaded--weight,-including-those-prorated-under-15-24-102-and except-those-subject-to-a-fee-in-lieu-of-property-tax;~~

~~(f)--theater-projectors-and-sound-equipment;-and~~

~~(g)--all-other-property-not-included-in--the--preceding nine--classes--except-that-property-subject-to-a-fee-in-lieu of-a-property-tax.~~

(a) all railroad transportation property as described in the Railroad Revitalization and Regulatory Reform Act of 1976 as it reads on [the effective date of this act];

(b) all airline transportation property as described in the Tax Equity and Fiscal Responsibility Act of 1982 as it reads on [the effective date of this act]; and

(c) all motor carrier transportation property as described in the Motor Carrier Act of 1980 as it reads on [the effective date of this act].

(2) Class ten property is taxed at ~~16%-of--its--market value.~~ the percentage rate "R", to be determined by the department as provided in subsection (3).

(3) R = (A + B + C + D)/E, where:

(a) R is the taxable percentage applicable to class ten property;

(b) A is the total statewide taxable value of all commercial real property and improvements included in class four and is determined by multiplying the total statewide market value of such class four property by the taxable percentage rate "P" provided in 15-6-134;

(c) B is the total statewide taxable value of all property included in class nine and is determined by multiplying the total statewide market value of class nine property by the taxable percentage provided in 15-6-139;

(d) C is the total statewide taxable value of all property described in 15-6-141(1)(a), (1)(b), (1)(d), and (1)(e) and is determined by multiplying the total statewide market value of the property described in those subsections by the taxable percentage provided in 15-6-141(2)(a);

(e) D is the total statewide taxable value of all property described in 15-6-141(1)(c) and is determined by multiplying the total statewide market value of the property described in 15-6-141(1)(c) by the taxable percentage provided in 15-6-141(2)(b); and

(f) E is the total statewide market value of:

(i) all property included in class nine and class eleven; and

(ii) all commercial real property and improvements included in class four.

(4) For the purpose of complying with the Railroad

Revitalization and Regulatory Reform Act of 1976, the Tax Equity and Fiscal Responsibility Act of 1982, and the Motor Carrier Act of 1980, as they read on [the effective date of this act]:

(a) the rate "R" referred to in subsection (2) is the average tax rate generally applicable to commercial and industrial property in Montana; and

(b) "commercial and industrial property" is all property included in class nine and class eleven and all commercial real property and improvements included in class four."

Section 9. Section 15-6-141, MCA, is amended to read:

"15-6-141. Class eleven property -- description -- taxable percentage. (1) Class eleven property includes:

(a) centrally assessed electric power companies' allocations;

(b) allocations for centrally assessed natural gas companies having a major distribution system in this state; and

(c) centrally assessed companies' allocations except:

(i) electric power and natural gas companies' property;

(ii) property owned by cooperative rural electric and cooperative rural telephone associations and classified in class five; and

(iii) property owned by organizations providing telephone communications to rural areas and classified in class ~~seven~~ nine; and

(iv) motor carrier, airline, and railroad transportation property included in class ten;

(d) all property used and owned by persons, firms, corporations, or other organizations that are engaged in the business of furnishing telephone communications exclusively to rural areas or to rural areas and cities and towns of 800 persons or less; and

(e) all property owned by cooperative rural electrical and cooperative rural telephone associations that serve less than 95% of the electricity consumers or telephone users within the incorporated limits of a city or town where the average circuit miles for each station on the telephone communication system is more than 1 mile.

(2) Class eleven property is taxed as follows:

(a) Property described in ~~subsection~~ subsections (1)(a), ~~and~~ (1)(b), (1)(d), and (1)(e) is taxed at ~~12%~~ 12.8% of market value.

(b) Except as provided in 15-23-202, property described in subsection (1)(c) is taxed at ~~15%~~ 12.8% of market value."

Section 10. Section 15-6-151, MCA, is amended to read:

"15-6-151. Application for certain class four

classifications. (1) A person applying for classification of property described in subsection ~~(1)(c)~~ (1)(d) or (1)(e) of 15-6-134 shall make an affidavit to the department of revenue, on a form provided by the department without cost, stating:

(a) his income;

(b) his retirement benefits;

(c) his marital status;

(d) the fact that he maintains the land and improvements as his primary residential dwelling, where applicable; and

(e) such other information as is relevant to the applicant's eligibility.

(2) This application must be made before March 1 of the year after the applicant becomes eligible. The application remains in effect in subsequent years unless there is a change in the applicant's eligibility. The taxpayer shall inform the department of any change in eligibility. The department may inquire by mail whether any change in eligibility has taken place and may require a new statement of eligibility at any time it considers necessary.

(3) The affidavit is sufficient if the applicant signs a statement affirming the correctness of the information supplied, whether or not the statement is signed before a person authorized to administer oaths, and mails the

application and statement to the department of revenue. This signed statement shall be treated as a statement under oath or equivalent affirmation for the purposes of 45-7-202, relating to the criminal offense of false swearing."

Section 11. Section 15-7-202, MCA, is amended to read:

"15-7-202. Eligibility of land for valuation as agricultural. (1) Land which is actively devoted to agricultural use shall be eligible for valuation, assessment, and taxation as herein provided each year it meets any of the following qualifications:

(a) the area of such land is not less than 5 contiguous acres when measured in accordance with provisions of 15-7-206, and it has been actively devoted to agriculture during the last growing season, and it continues to be actively devoted to agricultural use, which means:

(i) it is used to produce field crops including but not limited to grains, feed crops, fruits, vegetables; or

(ii) it is used for grazing and it is not classified as commercial timberland as defined in 15-6-138; or

~~(iii) it is used for growing timber; or~~

~~(iv)~~(iii) it is in a cropland retirement program; or

(b) it agriculturally produces for sale or home consumption the equivalent of 15% or more of the owners' annual gross income regardless of the number of contiguous acres in the ownership; or

(c) it is used to raise animals in confined areas for the production of food or fiber, including but not limited to livestock, feedlots, dairies, fish hatcheries, and poultry farms.

(2) Land shall not be classified or valued as agricultural if it is subdivided with stated restrictions prohibiting its use for agricultural purposes.

(3) The grazing on land by a horse or other animals kept as a hobby and not as a part of a bona fide agricultural enterprise shall not be considered a bona fide agricultural operation."

Section 12. Section 15-7-307, MCA, is amended to read:

"15-7-307. Certificate -- exceptions. The certificate imposed by this part shall not apply to:

(1) an instrument recorded prior to July 1, 1975;

(2) the sale of agricultural land when the land is used for agricultural purposes;

(3) the United States of America, this state, or any instrumentality, agency, or subdivision thereof;

(4) an instrument which (without added consideration) confirms, corrects, modifies, or supplements a previously recorded instrument;

(5) a transfer pursuant to court decree;

(6) a transfer pursuant to mergers, consolidations, or reorganizations of corporations, partnerships, or other

business entities;

(7) a transfer by a subsidiary corporation to its parent corporation without actual consideration or in sole consideration of the cancellation or surrender of subsidiary stock;

(8) a transfer of decedents' estates;

(9) a transfer of a gift;

(10) a transfer between husband and wife or parent and child with only nominal actual consideration therefor;

(11) an instrument the effect of which is to transfer the property to the same party or parties;

(12) a sale for delinquent taxes or assessments, sheriff sale, bankruptcy action, or mortgage foreclosure;

(13) a transfer made in contemplation of death~~.~~; or

(14) the sale of timberland when the land is classified for tax purposes as commercial timberland."

Section 13. Section 15-8-111, MCA, is amended to read:

"15-8-111. Assessment -- market value standard -- exceptions. (1) All taxable property must be assessed at 100% of its market value except as provided in subsection (5) of this section and in 15-7-111 through 15-7-114.

(2) (a) Market value is the value at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of relevant facts.

(b) The market value of all ~~motor trucks, agricultural tools, implements, and machinery, and vehicles of all kinds, including but not limited to motorcycles, aircraft, and boats and all watercraft,~~ property included in class seven is the average wholesale value shown in national appraisal guides and manuals or the value of the vehicle before reconditioning and profit margin. The department of revenue shall prepare valuation schedules showing the average wholesale value when no national appraisal guide exists.

(c) The market value of all commercial property other than real property and improvements is the average retail value shown in one or more national appraisal guides and manuals chosen by the department of revenue. The department shall prepare valuation schedules showing the average retail value when no national appraisal guide exists.

(d) For real property and improvements, in the absence of contradictory market data information, market value is considered to be replacement cost depreciated.

(3) The department of revenue or its agents may not adopt a lower or different standard of value from market value in making the official assessment and appraisal of the value of property in 15-6-134 through ~~15-6-140~~ 15-6-137 and 15-6-139 through 15-6-141. For purposes of taxation, assessed value is the same as appraised value.

(4) The taxable value for all property in classes four

through seven and classes nine through eleven is the percentage of market value established for each class of property in 15-6-134 through 15-6-137 and 15-6-139 through 15-6-141.

(5) The assessed value of properties in 15-6-131 through 15-6-133 is as follows:

(a) Properties in 15-6-131, under class one, are assessed at 100% of the annual net proceeds after deducting the expenses specified and allowed by 15-23-503.

(b) Properties in 15-6-132 under class two are assessed at 100% of the annual gross proceeds.

(c) Properties in 15-6-133 under class three are assessed at 100% of the productive capacity of the lands when valued for agricultural purposes. All lands that meet the qualifications of 15-7-202 are valued as agricultural lands for tax purposes.

(d) Properties in 15-6-138, under class eight, are assessed at 100% of the combined appraised value of the standing timber and grazing productivity.

(6) Land and the improvements thereon are separately assessed when any of the following conditions occur:

(a) ownership of the improvements is different from ownership of the land;

(b) the taxpayer makes a written request; or

(c) the land is outside an incorporated city or town.

(7) The taxable value of all property in 15-6-131 and classes two, and three, and eight is the percentage of assessed value established in 15-6-131(2), 15-6-132, and 15-6-133, and 15-6-138 for each class of property."

Section 14. Section 15-16-611, MCA, is amended to read:

"15-16-611. Reduction of property tax for property destroyed by natural disaster. (1) The department of revenue shall, upon showing by a taxpayer that some or all of the improvements on his real property or a trailer or mobile home ~~as described in 15-6-134(1)(c)~~ have been destroyed to such an extent that such improvements have been rendered unsuitable for their previous use by natural disaster, adjust the tax due and payable for the current year on the property under 15-16-102 as provided in subsection (2) of this section.

(2) To determine the amount of tax due for destroyed property, the county treasurer shall multiply the amount of tax levied and assessed on the property for the year by the ratio that the number of days in the year that the property existed before destruction bears to 365.

(3) This section does not apply to delinquent taxes owed on the destroyed property for a year prior to the year in which the property was destroyed.

(4) For the purposes of this section, "natural

disaster" includes but is not limited to fire, flood, earthquake, or wind."

Section 15. Section 15-23-202, MCA, is amended to read:

"15-23-202. Assessment -- how made. (1) The department must assess the franchise, roadway, roadbed, rails, rolling stock, and all other operating properties of all railroads operated in more than one county or more than one state. All rolling stock must be assessed in the name of the person owning, leasing, or using the same. Assessment must be made to the person owning or leasing or using the same and must be made upon the entire railroad within the state. The depots, stations, shops, and buildings erected upon the space covered by the right-of-way and all other property owned or leased by such person, except as above provided, shall be assessed by the department.

(2) In determining the taxable value of railroad property, the department ~~may--modify~~ shall determine the percentage ~~multiplier~~ rate "R" provided for in ~~15-6-141~~ 15-6-140 in order to achieve compliance with the requirements of the federal Railroad Revitalization and Regulatory Reform Act of 1976, as amended."

Section 16. Section 15-7-111, MCA, is amended to read:

"15-7-111. Periodic revaluation of taxable property. ~~The~~ (1) Except as provided in subsection (2), the department

of revenue shall administer and supervise a program for the revaluation of all taxable property within the state at least every 5 years. A comprehensive written plan of rotation shall be promulgated by the department fixing the order of revaluation of property in each county on the basis of the last revaluation of taxable property in each county prior to July 1, 1974, in order to adjust the disparities therein between the counties. The plan of rotation so adopted shall provide that all property in each county shall be revalued at least every 5 years or that no less than 20% of the property in each county shall be revalued in each year. The department shall furnish a copy of the plan and all amendments thereto to each county assessor and the board of county commissioners in each county.

(2) All property in class four, class nine, class ten, and class eleven shall be revalued annually under a program developed, administered, and supervised by the department."

Section 17. Section 15-8-104, MCA, is amended to read:

"15-8-104. Department audit of taxable value -- costs of audit paid by department. (1) When in the judgment of the director of revenue it is necessary, audits may be made for the purpose of determining the taxable value of net proceeds of mines and oil and gas wells and all other types of property subject to ad valorem taxation.

(2) The department of revenue shall conduct audits of

the assessment of property in class four and class nine to assure that the value of the property in those classes reflects market value.

~~(2)~~(3) The cost of ~~the~~ any audit performed under subsection (1) or (2) shall be paid by the department."

NEW SECTION. Section 18. Repealer. Section 15-6-142, MCA, is repealed.

NEW SECTION. Section 19. Extension of authority. (1) Any existing authority of the department of revenue to make rules on the subject of the provisions of this act is extended to the provisions of this act.

(2) The department may initiate rulemaking proceedings under this section on or after the date on which this act is passed and approved, but no rule adopted under this section may be made effective before January 1, 1986.

NEW SECTION. Section 20. Severability. If a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. Section 21. Effective dates. (1) This act, except section 19 and this section, is effective January 1, 1986.

(2) Section 19 and this section are effective on

passage and approval.

-End-

STATE OF MONTANA

F I S C A L N O T E

REQUEST NO. FNN160-85

Form BD-15

In compliance with a written request received January 21 , 19 85 , there is hereby submitted a Fiscal Note for H.B. 240 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA). Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION

An act to generally revise Montana property tax classification law to comply with federal law granting certain types of property special consideration; requiring the Department of Revenue to annually revalue all commercial and industrial property; requiring the Department of Revenue to conduct audits of assessments on Class Four and Class Nine property and improvements; requiring the Department of Revenue to annually determine the taxable percentage rate applicable to Class Four real property and improvements to result in a zero percentage increase in the statewide taxable value of such property; defining the term "COMMERCIAL" as it applies to property subject to taxation; clarifying the term "MARKET VALUE" for property tax purposes, and providing effective dates.

ASSUMPTIONS

1) Total state taxable value under current law is $2,408,903,000 in FY1986 and $2,495,795,000 in FY1987 (OBPP).
2) The weighted average effective mill levy remains constant at the FY1984 level of 192.773 mills; University mill levy is 6 mills; School Foundation Program mill levy is 45 mills.
3) The proportion of total property tax required for all school funding is 60 percent.
4) Wholesale values are equal to 80 percent of retail values.
5) Additional costs to provide additional audit functions are $28,058 per year.
6) Additional costs associated with annual revaluations of all Commercial/Industrial property are estimated contingent upon the following alternatives:

(Continued)

David L Hunter

BUDGET DIRECTOR
Office of Budget and Program Planning

Date: Jan 25, 1985

HB 240

STATUS SHEET

HOUSE TAXATION COMMITTEE

49th Legislature

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
HB 229	Exempt mink under 11 months of age from taxation	1-17-85	Swift	1-30-85	DO NOT PASS, AS AMENDED	1-31-85
HB 231	Exempt from taxation up to $3,600 of public retirement benefits paid by another state and increase exemption for private & corp. retirement benefits	1-17-85	Swift	1-29-85	TABLED 2-8-85	
HB 240	To generally revise Montana property tax classification law	1-17-85	Ramirez	2-1-85	TABLED 3-28-85	
HB 241	Provide for proration of property tax on mobile home when it is moved	1-17-85	Kadas	1-28-85	DO PASS, AS AMENDED	1-29-85
HB 250	Establishing a method for determining tax rate applicable to centrally assessed property defining "commercial"	1-18-85	Ramirez	2-1-85	TABLED 3-28-85	
HB 44	Clarifying the inclusion of interest income from installment sales of real business property in non-resident's adjusted gross income	1-18-85	Towe	3-13-85	WITHOUT RECOMMENDATION 3-15-85	

Form CS-32
-81

MINUTES OF THE MEETING
TAXATION COMMITTEE
MONTANA STATE
HOUSE OF REPRESENTATIVES

February 1, 1985

The sixteenth meeting of the Taxation Committee was called to order in room 312-2 of the state capitol by Chairman Gerry Devlin at 8:11 a.m.

ROLL CALL: All members were present with the exception of Representative Ellison and Representative Iverson. Also present were Dave Bohyer, Researcher for the Legislation Council, and Alice Omang, secretary.

CONSIDERATION OF HOUSE BILL 240: Representative Ramirez, District 87, Billings, stated that this bill was recommended by the Revenue Oversight Committee and it was a clone of SB 48, but had genetic improvements. He gave background information as to how this bill came about. He indicated that they have several options - (1) to exempt this kind of property from taxation, (2) to do nothing (3) to have an administrative adjustment of tax rates at the assessment level, as most states do and (4) to handle the problem the way it is addressed in Senate Bill 48 and HB 240, and that is to reclassify the property tax classifications. He said that the problem with the latter is that it puts residential and commercial real property under one class. He went through the bill and explained all the things that it does. See Exhibits 1 & 1A.

PROPONENTS: Dennis Burr, representing the Montana Taxpayers' Association, stated that their support of this bill is based on the fact that this bill leaves residental and commercial property in the same class and SB 48 lists residential separately from commercial property.

Dave Goss, representing the Billings Chamber of Commerce, stated that in Yellowstone County, the commercial property represents 46 to 48% of the taxable value in the entire county, but they do not occupy 46% of the property in the county. They support this bill over SB 48, he claimed.

Jim Hughes, representing Mountain Bell, said that several years ago, the law was changed so, for rate-making purposes, regulators could use the original cost depreciated for the basis on which to establish rates and they are using that method now. He indicated they support the proposed amendments and support the bill.

Gregg Groepper, representing the Department of Revenue, declared that it is important that this committee realize that there are two bills and they are the result of two years of work by the Revenue Oversight Committee and they each have different areas of support. He offered some proposed amendments to this bill. See Exhibit 2.

Dennis McKnire, representing Burlington-Northern, stated that it is their opinion that this bill is an effort to address all the issues that have arisen over reclassification and they support this bill.

Les Loble, representing Northwest Airlines, Inc., gave a statement in support of this bill. See Exhibit 3.

There were no further proponents.

OPPONENTS: Jim Mockler, representing the Montana Coal Council, gave a statement in opposition. See Exhibit 4.

Karla Gray, representing the Montana Power Company, said that they are in the middle ground and could support it with a couple amendments and she indicated she was authorized to state that the Pacific Power and Light also concur in their position on this bill. She said that their opposition was to the increase in the tax rate and the change in the market value.

Gary Langley, Director of the Montana Mining Association, stated that they oppose this bill for the same reasons as set out by Mr. Mockler.

Gene Fenderson, representing the Laborers' Local 254, told the committee that they feel that this bill goes in the right direction, but the problem they have with it is tying commercial and residential property together.

Ben Havdahl, representing the Montana Motor Carriers' Association, offered testimony in opposition to this bill. See Exhibit 5.

Phil Campbell, representing the Montana Education Association, stated that they testified in favor of SB 48, and they are not standing in opposition to the additional revenue as it has a considerable positive effect on the school foundation program, but they have some concern about the separation of residential and commercial property.

Don Judge, representing the Montana State AFL-CIO, stated that he was not certain that they should oppose this bill, but they are opposed to the section of the bill where it ties commercial property into residential property and they feel that it is an unfair burden to tie the two together.

Don Allen, representing the Montana Wood Products Association, said that the timber industry is being taxed at high valuations now and they need to define what commercial timberland is. He indicated their biggest concern was leaving timber in a class by itself and he thought this would have repercussions across the country.

Dal Smilie, representing himself, gave testimony in opposition to this bill. See Exhibit 6.

Tom Ryan, representing the Montana Senior Citizens' Association, indicated that they were people on fixed incomes and they do not like to see residential and commercial property included in the same classification.

Sam Ryan, representing the Montana Senior Citizens' Association, stated that they oppose this bill, particularly those who own residential property.

Richard Clark, a retail motorcycle dealer in the state of Montana, noted that they were in a declining market and the .7% increase in this bill would not generate any appreciable income for the state of Montana.

There were no further opponents.

QUESTIONS ON HOUSE BILL 240: Representative Asay asked why they are going back to the method of using replacement value, which is not reflective of a particular piece of property for taxing.

Mr. Groepper replied that in Montana, it is required that property be valued at market value and every year the airlines and the railroad value at that market value and there are provisions within the property tax classification sytem that reads 'Other commercial property different than" and these manuals say "wholesale" instead of "retail"

and when you get to federal court, the judge doesn't always care what the opinion of the legislature is necessarily, they just read the law on its face.

Representative Asay asked the reasoning on tying commercial and residential together.

Mr. Groepper responded that as he understands the law right now, you are suppose to look at other properties in that class and to make an argument before the state tax appeal board to the effect that your property is not treated the same as other property in that class, so what has happend in the cases in Great Falls that are going on right now - the commercial taxpayer will go out and get an appraisal of his property and then he looks to other residential property and gathers evidence to show that the assessed value of the residential property is further away from the selling price of residential property than is his assessed value to his appraised value. He indicated that that taxpayer is arguing that his assessed value should be the same percentage of my selling price or market value as the residential property. He suggested that the committee should make sure that they treat those properties exactly the same if they are going to keep them in the same class and he is afraid that if they have to defend these appeals and they are in the same class, this bill without those amendments makes it difficult.

Representative Cohen asked how Representative Ramirez would feel about separating commercial property, being commercial property has a higher productive value.

Representative Ramirez responded that he would oppose that and the question of appraising the property on productive value rather than on market value is an entirely different issue.

Representative Raney asked if this bill came out of the 4R act.

Representative Ramirez answered that that was one of the factors but there was more consideration than just this act.

Representative Raney asked how they taxed railroads previously and how they would be taxed if this bill went into effect.

Representative Ramirez replied that how they taxed them previously is basically the problem - how this market value was determined - the question is whether that is equal in treatment as far as other commercial and industrial property is concerned and this bill, and SB 48, tries to address that problem by making it equal and this bill does it by defining commercial property and SB 48 does it by taking all commercial property and pulling it out and adjusting the railroad property so it is equal. He continued that this bill does the same thing except for the commercial real property in that class - it pulls that out and makes the same adjustment.

Representative Raney asked where the railroads would fit under the proposed bill.

Mr. Groepper responded that the bill does not contemplate changing the method they are using, but arriving at the value.

Representative Ream asked what would happen if they separate timber land from agriculture land.

Mr. Groepper replied that you have to take into consideration SB 33 and the department had an interim advisory committee on ag land classification and there was an interim study commission initiated by the legislature and the results of those studies recommended to the Revenue Oversight Committee that they supported unanimously to freeze the agricultural land valuation for this coming appraisal cycle with the understanding that the tax rate would stay the same. He continued that the reason to separate commercial timber from agricultural land is that agricultural land is valued as of 1963 and commercial timber land is valued on a five-year average in 1967 and 1971. He indicated that they would be revalued every five years. He said that they worked with the timber people and came up with a method that they thought was fair with the understanding that the value tax that timber paid would be addressed by the legislature but that separation is necessary because they have two different time periods.

Representative Sands asked if the immediate effect of this bill is to shift the burden from residential and agriculture to commercial.

Representative Ramirez responded that is not the purpose of this bill and he did not think that was the effect and this is not a change, but it is to maintain the existing law and it it does not change anything as far as agriculture is concerned. He stated that they have to define commercial property in order to meet the requirements of the 4R act.

Representative Sands stated that he was talking about the practical and real changes that would be made and the Montana Power Company and the coal companies indicated there would be a tax increase and he asked if there would be a tax shift or a tax increase.

Representative Rameriz replied that he would say, "Yes - he didn't like this bill either." He indicated that as far as a shift from residential, if you have an increase on some commercial taxpayers, then there is an inherent shift in there.

Representative Sands asked if that was his purpose.

Representative Ramirez replied that it was not and he felt like the fellow on death row - a choice between hanging and lethal injection - which one is the lesser of two evils. He indicated that he did not like SB 48, as he wanted to at least not separate commercial and residential.

Representative Keenan asked if this would in any way solve the 34% problems.

Representative Ramirez replied that it would in the future - if you don't adopt those amendments, you will continue to have those problems and if you adopt SB 48, you won't have that problem.

Representative Keenan asked why he was so intent on keeping residential and commercial together.

Representative Ramirez answered that the testimony that they heard should tell why he is so and the argument will be made that the residential taxpayer is paying too much and wi-l be given some tax breaks and it will be that much easier to do if you have residential property in a separate class and in that concept, you will continue to shift more and more burden to the commercial taxpayer. He continued, by keeping the two in one class, serves as a brake on tax increase overall and, therefore, minimizes the shifting of that burden to the commercial property taxpayer. He stated that Montana has already a high property tax and a poor business climate and if they continue to do that, this will make the tax structure of this state less attractive to the business community.

There were no further questions.

Representative Ramirez said that when he compares HB 240 and SB 48, he would rather have HB 240, but that does not mean that he likes HB 240 and he would really rather have HB 250.

The hearing on this bill was closed.

CONSIDERATION OF HOUSE BILL 250: Representative Ramirez said that they do not have to have the reclassification in order to deal with the federal problem - they can do that administratively. He indicated that there is an administrative calculation of what is fair, this would leave the property tax classification alone and he personally belived that this is the way to go.

PROPONENTS: Ben Havdahl, representing the Montana Motor Carriers' Association, gave testimony in support of this bill. See Exhibit 7.

Dennis Burr, representing the Montana Taxpayers' Association, stated that he thought this was the legislation that would deal with most problems and he offered two suggestions for amendments. See Exhibit 7-A.

Karla Gray, representing the Montana Power Company, offered testimony in support of this bill. See Exhibit 8.

Dennis McKnire, representing Burlington-Northern, said that he was not sure if they were an opponent or a proponent, and he suggested an amendment in section 3, page 7, line 25, by inserting "personal" between "commercial" and "property".

DAILY ROLL CALL

HOUSE TAXATION COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date February 1, 1985

NAME	PRESENT	ABSENT	EXCUSED
DEVLIN, GERRY, Chrm.	X		
WILLIAMS, MEL, V. Chrm.	X		
ABRAMS, HUGH	X		
ASAY, TOM	X		
COHEN, BEN	X		
ELLISON, ORVAL		X	
GILBERT, BOB	X		
HANSON, MARIAN	X		
HARRINGTON, DAN	X		
HARP, JOHN	X		
IVERSON, DENNIS		X	
KEENAN, NANCY	X		
KOEHNKE, FRANCIS	X		
PATTERSON, JOHN	X		
RANEY, BOB	X		
REAM, BOB	X		
SANDS, JACK	X		
SCHYE, TED	X		
SWITZER, DEAN	X		
ZABROCKI, CARL	X		

CS-30

1984 ADJUSTED PER HB 240

CLASS	TAXABLE PERCENTAGE	TYPE OF PROPERTY
I	100%	Net Proceeds of all Mines and Mining Claims Except Coal and Metal Mines.
II	3%	Gross Proceeds of Metal Mines
	33 1/3%	Gross Proceeds of Underground Coal Mines
	45%	Gross Proceeds of Coal Mines Using the Strip-Mining Method
III	30%	All Agriculture Land
IV	8.55%	All land, including, for farm homes, 1 acre of agricultural land at market value, except that specifically included in another class;
	8.55%	All improvements except those specifically included in another class;
	8.55%	A trailer or mobile home used as a residence except when: (i) held by a distributor or dealer of trailers of or mobile homes as his stock in trade; or (ii) specifically included in another class;
	Varies from 0% to 7.695% Depending on the Adjusted Gross Income	So much of the market value of any improvement on real property, or mobile home and the appurtenant land not exceeding 5 acres, as does not exceed $35,000, when sch dwelling and land are owned under contract for deed, by certain widows, retired, disabled and other persons whose adjusted gross income as reported on their latest federal income tax return, is not more than $8,000 if single or $10,000 if married.
	8.55%	All Golf Courses, including land and improvements actually and necessarily used for that purpose, that: (1) Consist of at least 9 holes and not less than 3,000 lineal yards; and (2) were used as Golf Courses January 1, 1979 and owned by a nonprofit Montana Corporation.

HB 240
2/1/85
Ramirez

1984 ADJUSTED PER HB 240

CLASS	TAXABLE PERCENTAGE	TYPE OF PROPERTY
V	3%	All property used and owned by Cooperative Rural Electrical and Cooperative Rural Telephone Associations organized under the laws of Montana, except property owned by Cooperative organizations, described in subsection (1)(c) of 15-6-137 (Class VII).
	3%	Air and Water Pollution Control Equipment
	3%	Property that meets the requirements for "New Industry"
	3%	Any Personal or Real Property used primarily in the production of gasohol during construction and for the first 3 years of its operation.
VI	4%	Livestock and poultry and the unprocessed products of both;
	4%	All unprocessed agricultural products on the farm or in storage except all perishable fruits and vegetables in farm storage and owned by the producer;
	4%	Items of personal property intended for lease in the ordinary course of business provided each item of personal property satisfies all of the following; (i) the full and true value if the personal property is less than $5,000; (ii) the personal property is owned by a business whose primary business income is from rental or lease of personal property to individuals wherein no one customer of the business accounts for more than 10% of the total rentals or leases during a calendar year; and (iii) the lease of the personal property is generally on an hourly, daily, or weekly basis.
VII	11.1%	All property used for noncommercial purposes which is not real property or an improvement to real property and which is not in another class or exempt from taxation under Title 15, Chapter 6, Part 2; and
	11.1%	All agricultural machinery and equipment used in a bona fide farm, ranch, or stock operation.

1984 ADJUSTED PER HB 240

CLASS	TAXABLE PERCENTAGE	TYPE OF PROPERTY
VIII	30%	All commercial timberland.
IX	11.7%	Buses and trucks having a rated capacity of more than three-quarters of a ton but less than or equal to 1 1/2 tons;
	11.7%	Truck toppers weighing more than 300 pounds;
	11.7%	Furniture, fixtures, and equipment, except that specifically included in another class, used in commercial establishments as defined in this section;
	11.7%	X-ray and medical and dental equipment;
	11.7%	Citizens' band radios and mobile telephones
	11.7%	All mining machinery, fixtures, equipment, tools, and supplies except those included in class five;
	11.7%	All manufacturing machinery, fixtures, equipment, tools, and supplies except those included in class five;
	11.7%	All trailers up to and including 18,000 pounds maximum gross loaded weight, except those subject to a fee in lieu of property tax;
	11.7%	All goods and equipment intended for rent or lease, except goods and equipment specifically included and taxed in another class;
	11.7%	All other machinery except that specifically included in another class;
	11.7%	Radio and television broadcasting and transmitting equipment;
	11.7%	Cable television systems;
	11.7%	Coal and ore haulers;
	11.7%	All trailers exceeding 18,000 pounds maximum gross loaded weight, including those prorated under 15-24-102 and except those subject to a fee in lieu of property tax;
	11.7%	Theater projectors and sound equipment;

1984 ADJUSTED PER HB 240

CLASS	TAXABLE PERCENTAGE	TYPE OF PROPERTY
	11.7%	Electric transformers and meters; electric light and power substation machinery; natural gas measuring and regulating station equipment, meters, and compresssor station machinery owned by noncentrally assessed public utilities; and tools used in the repair and maintenance of this property;
	11.7%	Tools, implements, and machinery used to repair and maintain machinery not used for manufacturing and mining purposes; and
	11.7%	All other property not included in any other class except that property subject to a fee in lieu of a property tax. NOTE: "Commercial establishment" includes any hotel; motel; office; petroleum marketing station; or service wholesale, retail, or food-handling business
X	Tax Rate Derived From Formula	All railroad transportation property; and (11.2063%)
	Tax Rate Derived From Formula	All airline transportation property. (11.2063%)
XI	12.8%	Centrally assessed electric power companies' allocations;
	12.8%	Allocations for centrally assessed natural gas companies having a major distribution system in this state; and
	12.8%	Centrally assessed companies' allocations except: (i) electric power and natural gas companies' property; (ii) property owned by cooperative rural electric and cooperative rural telephone associations and classified in class five; and (iii) property owned by organizations providing telephone communications to rural areas and classifield in class nine; and (iv) Airline and railroad transportation property included in class ten;

CLASS	PERCENTAGE	TYPE OF PROPERTY
XI	12.8%	All property used and owned by persons, firms, corporations, or other organizations that are engaged in the business of furnishing telephone communications exclusively to rural areas or to rural areas and cities and towns of 800 persons or less; and
	12.8%	All property owned by cooperative rural electrical and cooperative rural telephone associations that serve less than 95% of the electricity consumers or telephone users within the incorporated limits of a city or town where the average circuit miles for each station on the telephone communication system is more than 1 mile.

jn95-4

AMENDMENTS TO HB 240

(1) 15-1-101, MCA, definitions. Section (1)
Following: "Subsection (1):
Insert: "(m) The term "comparable property" is defined as:

(i) those properties that have similar utility, similar use, similar function, and are of a similar type as a given subject property, and

(ii) the comparable properties must be influenced by the same set of economic trends, and physical, economic, governmental, and social factors as the subject property, and

(iii) the comparable properties must have the potential of a similar, if not identical, highest and best use as the subject property.

(iv) by definition commercial property shall be compared only to commercial property. Residential property shall be compared only to residential property.

(2) Page 28, line 4.
Following "property."
Insert: "(8) Taxpayers who elect to appeal or to judicially contest the value of their property, as defined in this part, shall be required to make:

(1) Valid comparisons using "similar and comparable properties", and/or

(2) Legal arguments regarding the specific Department of Revenue appraisal methodology used to value the contested property.

The tax appeal boards and the courts of the state may not accept, as evidence, any other methods of proof in contested ad valorem tax controversies."

1984 TAX CLASSIFICATION

CLASS	TAXABLE PERCENTAGE	TYPE OF PROPERTY	CHANGES
I	100%	Net Proceeds of all Mines and Mining Claims Except Coal and Metal Mines	No Change
II	3%	Gross Proceeds of Metal Mines	No Change
	33 1/3%	Gross Proceeds of Underground Coal mines	" "
	45%	Gross Proceeds of Coal Mines Using the Strip-Mining Method	" "
III	30%	All Agriculture Land	No Change
	30%	Commercial Timber Land	Moves to Class XIII (30%)
IV	8.55%	All Land Except that Specifically Included in Another Class	No Change
	8.55%	All Improvements Except those Specifically Included in Another Class	" "
	Varies from 0% to 7.695% Depending on the Adjusted Gross Income	So much of the market value of any improvement on real property, as does not exceed $35,000, when such dwelling and land are owned under contract for deed, by certain widows, retired, disabled and other persons whose adjusted gross income as reported on their latest federal income tax return, is not more than $8,000 if single or $10,000 if married.	No Change
	4.275%	All Golf Courses, including land and improvements actually and necessarily used for that purpose, that: (1) Consist of at least 9 holes and not less than 3,000 lineal yards; and (2) were used as Golf Courses January 1, 1979 and owned by a nonprofit Montana Corporation.	" "
V	3%	All property used and owned by Cooperative Rural Electrical and Cooperative Rural Telephone Associations organized under the laws of Montana, except property owned by Cooperative organizations, described in subsection (1)(c) of 15-6-137 (Class VII).	No Change
	3%	Air and Water Pollution Control Equipment	" "
V	3%	Property that meets the requirements for "New Industry"	No Change

CLASS	TAXABLE PERCENTAGE	TYPE OF PROPERTY	
	3%	Any Personal and Real Property used primarily in the production of gasohol during construction and for the first 3 years of its operation.	" "
VI	4%	Livestock and poultry and the unprocessed products of both;	No Change
	4%	All unprocessed agricultural products on the farm or in storage except all perishable fruits and vegetables in farm storage and owned by the producer;	" "
	4%	Items of personal property intended for lease in the ordinary course of business provided each item of personal property satisfies all of the following; (i) the full and true value if the personal property is less than $5,000; (ii) the personal property is owned by a business whose primary business income is from rental or lease of personal property to individuals wherein no one customer of the business accounts for more than 10% of the total rentals or leases during a calendar year; and (iii) the lease of the personal property is generally on an hourly, daily, or weekly basis.	" "
VII	8%	All property used and owned by persons, firms, corporations that are engaged in the business of furnishing telephone communications exclusively to rural areas or to rural areas and cities and towns of 800 persons or less;	Moves to Class XI (12.8%)
	8%	All property owned by cooperative rural electric and cooperative rural telephone associations that serve less than 95% of the electricity consumers or telephone users within the incorporated limits of a city or town;	Moves to Class XI (12.8%)
	8%	Electric transformers and meters; electric light and power substation machinery; natural gas measuring and regulating station equipment, meters, and compressor station machinery owned by noncentrally assessed public utilities; and tools used in the repair and maintenance of this property; and	Moves to Class IX (11.7%)

1984 TAX CLASSIFICATION

CLASS	TAXABLE PERCENTAGE	TYPE OF PROPERTY	CHANGES
VII	8%	Tools, implements, and machinery used to repair and maintain machinery not used for manufacturing and mining purposes.	Moves to Class IX (11.7%)
VIII	11%	All agricultural implements and equipment;	Moves to class VII (11.1%)
	11%	All mining machinery, fixtures, equipment, tools, and supplies except: (i) those included in class five; and (ii) coal and ore haulers;	If commercial - Class IX (11.7%) or If noncommerical- Class VII (11.1%)
	11%	All manufacturing machinery, fixtures, equipment, tools, and supplies except those included in class five;	" " "
	11%	Motorcycles;	" " "
	11%	Watercraft;	" " "
	11%	All trailers up to and including 18,000 pounds maximum gross loaded weight, except those subject to a fee in lieu of property tax;	" " "
	11%	Aircraft;	" " "
	11%	All-terrain vehicles;	" " "
	11%	Harness, saddlery, and other tack equipment;	" " "
	11%	All goods and equipment intended for rent or lease, except goods and equipment specifically included and taxed in another class; and	" " "
	11%	All other machinery except that specifically included in another class.	" " "
IX	13%	Buses and trucks having a rated capacity of more than three quarters of a ton but less than or equal to 1 1/2 tons;	If commercial - Class IX (11.7%) or If noncommercial- Class VII (11.1%)
	13%	Truck toppers weighing more than 300 pounds;	If used in a Bona Fide Farm/Ranch or Stock Operation move to Class VII (11.1%)
	13%	Furniture, fixtures, and equipment, except that specifically included in another class, used in commercial establishments as defined in this section;	
	13%	X-ray and medical and dental equipment; and	" " "

1984 TAX CLASSIFICATION

CLASS	TAXABLE PERCENTAGE	TYPE OF PROPERTY	CHANGES
	13%	Citizens' band radios and mobile telephones.	" " "
X	16%	Radio and television broadcasting and transmitting equipment;	If Commercial move to Class IX (11.7%)
	16%	Cable television systems;	If Noncommercial move to Class VII (11.1%)
	16%	Coal and ore haulers;	If used in a Bona Fide Farm/Ranch or Stock Operation move to Class VII (11.1%)
	16%	Trucks having a rated capacity of more than 1 1/2 tons, including those prorated under 15-24-102;	
	16%	All trailers exceeding 18,000 pounds maximum gross loaded weight, including those prorated under 15-24-102 and except those subject to a fee in lieu of property tax;	" " "
	16%	Theater projectors and sound equipment; and	" " "
	16%	All other property not included in the preceding nine classes except that property subject to a fee in lieu of a property tax.	" " "
XI	12%	Centrally assessed electric power companies' allocations;	Move to Class XI (12.8%)
	12%	Allocations for centrally assessed natural gas companies having a major distribution system in this state; and	Move to Class XI (12.8%)
	15%	Centrally assessed railroads, telecommunications, pipelines, and airlines.	Move Centrally Assessed Railraods and Airlines to Class X - Tax Rate Derived from Formula
XII	8.55%	A trailer or mobile home used as a residence giving the same elderly benefits afforded in class IV.	Move to Class IV (8.55%)

jn95-3

Exhibit 2
2/1/95
HB 240
Groepper

AMENDMENTS TO HB 240

(1) 15-1-101, MCA, definitions. Section (1)
Following: "Subsection (1):
Insert: "(n) The term "comparable property" is defined as:

(i) those properties that have similar utility, similar use, similar function, and are of a similar type as a given subject property, and

(ii) the comparable properties must be influenced by the same set of economic trends, and physical, economic, governmental, and social factors as the subject property, and

(iii) the comparable properties must have the potential of a similar, if not identical, highest and best use as the subject property.

(iv) by definition commercial property shall be compared only to commercial property. Residential property shall be compared only to residential property.

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Following "property."
Insert: "(8) Taxpayers who elect to appeal or to judicially contest the value of their property, as defined in this part, shall be required to make:

(1) Valid comparisons using "similar and comparable properties", and/or

(2) Legal arguments regarding the specific Department of Revenue appraisal methodology used to value the contested property.

The tax appeal boards and the courts of the state may not accept, as evidence, any other methods of proof in contested ad valorem tax controversies."

Exhibit 3
HB 240
2/1/85
Loble

WITNESS STATEMENT

Name Les Loble House Committee On TAXATION

Address PO Box 176 Helena Date 2/1/85

Representing Northwest Airlines Inc Support ✓

Bill No. HB 240 Oppose

Amend ✓

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. Generally support the bill as proposed. Commercial and Residential real property should be in same class.
2. Support deletion of lines 10 - 18, p2b. When valuing fleets of airlines the value of an individual plane, such as a 747, may not be used to value entire fleet by simple
3. multi-plication. If this method were accurate then Braniff Airline Stock would be worth $18.75 a
4. share rather than zero — because that is the "value" of its fleet according to appraisal guides.

Replacement cost less depreciation presents the same inflation of value.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

FORM CS-34
1 83

Exhibit 4
2/1/85
HB 240
Mockler

Testimony on HB 240
House Taxation
February 1, 1985

Mr. Chairman, members of the Committee, I am James D. Mockler, Executive Director of the Montana Coal Council, and I appear today in opposition to HB 240.

A similar bill was heard in the Senate with the proponents claiming that the bill has little fiscal impact and that the purpose is to tax like property in a like manner. In spite of a supportive and incorrect fiscal note both allegations are grossly misstated.

First, the fiscal impact.

Section 13 on page 26 of the bill mandates that "the market value of all commercial property other than real property and improvements is the average retail value shown in one or more national appraisal guides . . ." The difference between wholesale and resale value for heavy equipment and machinery including trucks is in excess of 40%. In addition, this particular class of property in Class Nine in HB 240 has a rate increase from 11% of value to 11.7% of value.

Using published data from the "Report of the Department of Revenue -- July 1980 to July 1982", page 64, I note that the class listed as "Manufacturing, Mining & Drilling Mach. (11%)" lists a market value of $843,216,243. Following is the estimated effect of HB 240 on that class alone.

1982 Market Value	$843,216,243	
1982 Taxable Value	92,753,789	(11%)
W/HB 240 Market Value	1,180,502,400	(+40%)
W/HB 240 Taxable Value	138,118,780	(11.7%)
Taxable Value Increase	45,365,000	
Tax Increase Assuming 200 Mill Levy	9,073,000	

While it is true that coal and ore haulers would be changed from a taxable value of 16% to 11.7% virtually all the difference is taken up by the increase in value from wholesale to retail and one 100-yard dragline equals a sizeable fleet of coal haulers.

Section (d) on page 26 states "For real property and improvements, in the absence of contradictory market data information, market value is considered to be replacement cost depreciated.

For the sake of demonstration let us assume that a major piece of mining equipment was installed in 1967 for 2 million dollars and was depreciated to 50% of its original cost.

Original Cost	$2,000,000
Depreciated Value (50%)	1,000,000
Taxable Value at 11%	110,000
Tax @ 200 Mills	22,000

Using the August 1984 Producer Price Index of 377.8, that same piece of equipment under HB 240 would be taxed as follows:

Replacement Cost	$7,556,000
Depreciated Value (50%)	3,778,000
Taxable Value @ 11.7%	442,026
Tax @ 200 Mills	88,405.20
Increased Tax or 409%	66,405.20

All of this is in direct conflict with section (2)(a) on page 25 which states "Market value is the value at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of relevant facts." A piece of equipment in the field simply is not worth what it is after a dealer has reworked it and placed it on the market.

As for like property being treated in like manner, I ask you to note that agricultural tools, machinery and equipment under HB 240 is declared a "non-commercial property", taxed at wholesale values and at a lower rate (p. 14). Is this not to say that a tractor or truck used for agriculture is somewhat different than the same tractor or truck used somewhere else? I have farmed and ranched most of my life and although profits were few and far between I was in the business to make a profit just like any other businessman.

How would the court construe this discrepancy assuming that a reason for this bill is to treat like property in a like manner?

I understand that Rep. Ramirez has another bill to address the problems of assessing railroads and other similar properties in HB 250. I urge you to recommend a do not pass on HB 240 and to proceed to correct the problem by addressing HB 250.

Table 2. Producer price indexes and percent changes for selected commodity groupings by stage of processing—Continued

(1967 = 100 unless otherwise indicated)

Grouping	Commodity code	Relative importance Dec. 1983[1]	Unadjusted index		Unadjusted percent change to Sep. 1984 from:		Seasonally adjusted percent change from:		
			Aug. 1984[2]	Sep. 1984[2]	Sep. 1983	Aug. 1984	June to July	July to Aug.	Aug. to Sep.
Finished consumer goods excluding foods—Continued									
Jewelry, platinum & karat gold (Dec. 1978 = 100)[3]	15-94-02	0.892	178.6	177.3	-5.9	-0.7	-1.3	0.2	-0.7
Other precious metal jewelry (Dec. 1978 = 100)[3]	15-94-03	.215	167.8	167.8	1.5	0	0	0	0
Costume jewelry (Dec. 1978 = 100)[3]	15-94-04	.377	143.5	129.5	5.8	-9.8	5.5	7.0	-9.8
Capital equipment		22.185	295.1	292.9	2.7	-.7	.2	.3	.0
Agricultural machinery and equipment	11-1	1.388	337.6	337.9	2.9	.1	.3	.2	-.2
Construction machinery and equipment[3]	11-2	1.471	358.6	359.0	1.6	.1	0	.1	.1
Industrial process furnaces and ovens[3]	11-34	.150	376.0	375.5	3.3	-.1	0	.4	-.1
Metal cutting machine tools	11-37	.406	385.1	388.8	2.7	.4	.5	.5	.3
Metal forming machine tools	11-38	.220	425.1	425.7	2.5	.1	-.2	.2	.3
Pumps, compressors, and equipment	11-41	.462	348.1	349.6	1.0	.4	.1	-.2	.7
Industrial material handling equipment[3]	11-44	.754	290.3	290.6	1.9	.1	.1	.4	.1
Fans and blowers except portable[3]	11-47	.129	351.4	351.6	4.1	.1	.2	.1	.1
Food products machinery	11-61	.131	317.2	317.2	-.7	0	-.5	.3	-.1
Textile machinery	11-62	.270	268.3	267.7	1.4	-.2	-.9	.8	.3
Woodworking machinery[3]	11-63	.123	295.7	295.7	.1	0	.5	0	0
Printing trades machinery[3]	11-65	.252	318.5	318.5	2.5	0	-3.6	2.7	0
Rubber working machinery (Dec. 1981 = 100)[3]	11-66-01	.121	109.5	109.5	.5	0	0	.2	0
Plastics machinery (Dec. 1981 = 100)[3]	11-66-03	.176	123.9	113.9	6.4	-8.1	12.1	-.5	-8.1
Chemical industry machinery[3]	11-66-04	.099	442.0	442.0	1.6	0	1.2	-1.0	0
Service industry machinery (June 1982 = 100)[3]	11-68	.206	109.3	109.6	3.5	.3	.2	.1	.3
Integrating and measuring instruments	11-72	.200	229.2	230.2	3.9	.4	0	-.3	.6
Transformers and power regulators[3]	11-74	.497	228.0	228.5	1.6	.2	.2	0	.2
Oil field and gas field machinery[3]	11-91	.180	426.1	426.3	.2	0	-.8	.3	0
Mining machinery and equipment	11-92	.154	377.8	375.9	2.5	-.5	.7	.6	-.3
Office and store machines and equipment[3]	11-93	1.292	154.1	154.2	-.1	.1	-.1	-.1	.1
Commercial furniture[3]	12-2	.913	298.4	298.5	3.9	0	.3	.2	0
Passenger cars	14-11-01	2.387	221.3	211.0	1.5	-4.7	.2	.1	-.4
Light motor trucks	14-11-05	1.302	281.7	267.8	4.9	-4.9	.4	.9	.5
Heavy motor trucks	14-11-06	1.114	334.7	331.5	10.1	-1.0	.3	-.4	-.8
Truck trailers (June 1980 = 100)[3]	14-14	.283	113.2	113.8	4.5	.5	1.0	-.3	.5
Fixed wing, utility aircraft (Dec. 1968 = 100)	14-21-11	1.112	351.7	357.4	6.1	1.6	1.0	.4	0
Railroad equipment	14-4	.464	364.6	364.6	4.0	0	.1	.2	.2
Photographic equipment	15-41	.148	-	116.5	-11.0	(*)	1.2	(*)	(*)
Intermediate materials, supplies, and components		100.000	321.1	320.3	1.5	-.2	-.2	-.2	-.1
Intermediate foods and feeds		5.222	251.7	248.0	-5.8	-1.5	-1.7	-1.1	-1.6
Flour	02-12-03	.235	183.4	182.8	-3.7	-.3	-.6	-2.3	-1.4
Refined sugar (Dec. 1977 = 100)[3]	02-53	.630	174.3	172.8	-1.3	-.9	.1	-.1	-.9
Confectionery materials (Dec. 1977 = 100)[3]	02-54	.239	158.7	156.3	-.6	-1.5	2.6	-.6	-1.5
Animal fats and oils	02-71	.065	386.5	382.2	9.0	-1.1	-6.6	-4.9	-3.4
Crude vegetable oils	02-72	.204	267.9	248.8	-15.3	-7.1	-13.7	-.1	-8.3
Prepared animal feeds	02-9	1.637	214.0	209.0	-16.2	-2.3	-2.8	3.0	-3.8
Intermediate materials less foods and feeds		94.778	326.3	325.7	1.9	-.2	-.1	-.1	0
Synthetic fibers (Dec. 1975 = 100)	03-1	.760	159.9	159.2	.8	-.4	-.3	-.4	-.4
Processed yarns and threads (Dec. 1975 = 100)	03-2	.921	142.1	142.2	1.4	.1	.8	-1.5	.1
Gray fabrics (Dec. 1975 = 100)	03-3	1.093	154.4	154.5	4.9	.1	-.2	-.1	0
Finished fabrics (Dec. 1975 = 100)	03-4	1.512	127.3	127.0	2.9	-.2	.4	-.7	.1
Leather	04-2	.234	379.7	372.6	9.8	-1.9	.8	-.9	-1.9
Coke oven products[3]	05-2	.165	437.3	435.4	-4.1	-.4	0	-1.0	-.4
Liquefied petroleum gas[3]	05-32	.699	614.8	631.2	-11.7	2.7	-1.9	-3.0	2.7
Electric power	05-4	5.414	457.1	456.8	6.8	-.1	.7	1.0	0
Gasoline	05-71	2.839	555.1	550.4	-11.2	-.8	-3.1	-4.2	-.5
Kerosene (Feb. 1973 = 100)	05-72-02-01	.179	690.8	678.0	-4.4	-1.9	-.9	-2.8	-.6
Commercial jet fuel (Feb. 1973 = 100)[3]	05-72-03-01	1.172	722.7	715.7	-2.9	-1.0	-.3	-.8	-1.0
Diesel fuel (Feb. 1973 = 100)[3]	05-73-03-01	1.303	674.6	658.8	-5.2	-2.3	.9	-3.3	-2.3
Residual fuel	05-74	2.171	1152.9	1119.4	1.6	-2.9	1.4	-1.8	.4
Lubricating oil materials[3]	05-75	.539	797.8	794.5	2.4	-.4	0	0	-.4
Industrial chemicals	06-1	4.089	341.7	338.1	-2.2	-1.1	.1	-1.2	-.6
Prepared paint[3]	06-21	.688	276.4	277.4	4.9	.4	1.2	.8	.4
Paint materials	06-22	.451	335.1	333.5	5.5	-.5	-.9	-.1	-.6
Medicinal and botanical chemicals[3]	06-31	.231	222.1	221.4	-.9	-.3	0	5.7	-.3
Fats and oils, inedible	06-4	.176	350.5	359.4	9.2	2.5	-2.8	-8.2	-.3
Mixed fertilizers	06-51	.289	267.6	265.0	4.0	-1.0	-.3	.3	-.7
Nitrogenates[3]	06-52-01	.242	207.4	207.8	9.2	.2	0	-4.3	.2

See footnotes at end of table.

STATE TOTALS

REAL PROPERTY — LAND	—1981—			—1982—		
	ACRES	MARKET VALUE	TAXABLE VALUE	ACRES	MARKET VALUE	TAXABLE VALUE
Agricultural Land:						
Irrigated (30%)	1,450,717	46,466,837	13,940,057	1,665,173	50,256,081	15,076,828
Non-Irrigated (30%)	11,697,974	270,337,139	81,101,149	11,852,592	268,941,895	80,682,569
Grazing (30%)	36,749,758	130,676,085	39,202,835	36,522,530	129,504,682	38,851,408
Orchard Land (30%)				6	199,549	59,865
Wild Hay (30%)	1,099,123	18,526,397	5,557,924	1,083,553	18,514,473	5,554,345
Timberland (30%)	3,131,177	21,312,990	6,393,900	3,128,702	21,156,426	6,346,931
Other Land:						
Suburban Tracts (8.55%)	363,969	474,162,896	40,581,481	365,113	458,059,707	39,167,252
(4.275%)	2,354	4,765,839	203,781			
(.855% to 7.695%)				1,785	5,305,080	286,148
Commercial Suburban Tracts (8.55%)				7,767	30,711,046	2,654,890
City and Town Lots (8.55%)		854,275,849	73,040,585		758,999,625	64,894,470
(4.275%)		20,722,930	885,906			
(.855% to 7.695%)					21,516,773	1,132,670
Commercial City and Town Lots (8.55%)					101,665,840	8,692,428
Qualified Golf Courses (4.275%)		1,609,874	68,822		1,306,324	55,846
Industrial Sites (8.55%)	45,400	177,635,608	15,187,845	36,695	172,891,928	14,782,261
New Industrial Sites (3%)	174	392,128	11,765	192	6,284,756	188,544
Reserved Right of Entry (100%)	1,826,990	1,522,118	1,522,118	2,428,272	1,599,711	1,599,711
IMPROVEMENTS						
On Agricultural Land (8.55%)		653,394,095	55,865,194		673,309,665	57,567,977
(4.275%)		3,273,852	139,957			
(.855% to 7.695%)					2,206,957	114,566
On Timberland (8.55%)		4,854,459	415,057		6,346,613	542,635
On Suburban Tracts (8.55%)		943,817,621	80,696,408		891,052,352	76,184,978
(4.275%)		14,705,526	628,661			
(.855% to 7.695%)					14,501,211	734,508
On Commercial Suburban Tracts (8.55%)					121,983,470	10,429,580
On City and Town Lots (8.55%)		2,991,447,614	255,768,773		2,577,214,341	220,351,[illegible]
(4.275%)		69,346,629	2,964,567			
(.855% to 7.695%)					56,953,985	3,043,[illegible]
On Commercial City/Town Lots (8.55%)					409,226,477	34,988,[illegible]
On Qualified Golf Courses (4.275%)		5,647,894	241,448		4,911,864	209,982
On Industrial Sites (8.55%)		812,624,874	69,479,425		638,096,754	54,557,272
On New Industrial Sites (3%)		29,277,267	878,318		32,798,918	983,967
Improve Existing Improvements (1.7% to 6.8%)		1,353,459	64,583		5,278,156	104,241
PERSONAL PROPERTY	NUMBER	MARKET VALUE	TAXABLE VALUE	NUMBER	MARKET VALUE	TAXABLE VALUE
Motor Vehicles (11% to 16%)	503,089	1,060,038,692	140,675,409	156,529	246,058,324	34,793,742
Livestock (4%)						
Cattle	1,972,196	785,212,767	31,408,523	2,025,545	734,237,514	29,369,505
Sheep	446,094	17,589,705	703,586	470,611	14,352,544	574,091
Horses	60,642	34,208,576	1,368,343	62,209	34,901,503	1,396,068
Swine	108,856	8,068,786	322,760	100,745	7,323,556	292,946
Other	523,178	4,412,102	176,485	680,285	5,379,777	215,191
Aircraft (11%)	1,515	44,695,436	4,916,503	1,511	43,187,348	4,750,608
Watercraft (11%)	18,472	20,491,036	2,254,019	18,768	17,541,239	1,929,538
Mobile Homes (8.55%)	42,377	231,474,205	19,791,040	39,803	237,668,916	20,320,694
(4.275%)	1,187	5,593,440	239,120			
(.855% to 7.695%)				1,509	5,877,021	308,639
Machinery Other Than Farm, Mining or Manufacturing (11%)		197,431,093	21,717,422		199,629,954	21,959,294
Farm Machinery and Equipment (11%)		685,239,415	75,376,338		647,080,747	71,178,879
Manufacturing, Mining & Drilling Mach (11%)		973,737,183	107,111,093		843,216,243	92,753,789
Furniture and Fixtures (13%)		232,904,367	30,277,569		257,923,139	33,530,012
Agricultural Products in Storage (4%)		143,212,851	5,728,513		124,775,201	4,991,008
Business Inventories (4%)		838,868,327	33,554,738		968,846,815	38,753,870
New Industrial Property (3%)		74,043,047	2,221,291		96,466,995	2,894,011
Air/Water Pollution Control Facilities (3%)		151,787,511	4,553,626		112,261,397	3,367,842
Other Personal Property (3% to 16%)		193,774,554	23,321,833		175,845,677	20,819,139
INTRA COUNTY UTILITIES		10,209,189	1,402,942		4,474,315	630,268
INTRA COUNTY COOPERATIVES		15,344,992	465,481		15,947,491	478,431
DEPARTMENT ALLOCATIONS		1,794,413,375	220,792,280		2,663,226,876	327,130,161
NET PROCEEDS AND ROYALTIES		440,131,129	440,131,129		619,142,414	619,142,414
GROSS PROCEEDS		356,938,954	107,280,138		396,320,538	133,021,9[illegible]
TOTAL VALUE		15,871,971,762	2,020,630,740		15,952,480,203	2,284,492,1[illegible]

Exhibit 5
2/1/85
HB240

WITNESS STATEMENT

Name Ben Havdahl Committee On TAXATION

Address Box 1714 Helena MT 59624 Date 2/1/85

Representing Montana Motor Carriers Assn Support

Bill No. HB 240 Oppose X

Amend

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. MMCA (Montana Motor Carriers Assn) represents the Regulated motor carriers in the State both in an Intrastate and interstate basis.
2. MMCA is opposed to changing the Market value of Commercial personal property from the Wholesale
3. value to the retail value. This will result in an increase in TAXES on Motor carrier "Rolling Stock" ie trucks/
4. tractors and trailers over 16,000# By about 35% Present Wholesale value is determined to be ~~75%~~ 80% of the retail value State in the Truck Blue Book.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

FORM CS-34
1-83

5

Exhibit 6
2/1/85
HB240
Smilie

TO: House Taxation Committee
FROM: Dal Smilie
RE: HB-240

HB-240 will raise taxes on motorcycles from 11% to 11.7% of market value. Neither the motorcyclists nor the small businessmen selling motorcycles can afford the present motorcycle taxation system let alone a rise in taxes. The Montana Department of Justice, Registrar's Bureau's figures reveal that motorcycle ownership dropped 1279 between 1982 and 1983, and 2031 between 1983 and 1984. Presently there are 48,901 titled motorcycles in Montana of which 17,756 are not currently registered. By either lowering the tax on motorcycles or enacting either HB-36 or 101 there is a great potential to raise more tax revenue by inducing the registration of more of the titled motorcycles.

Motorcycle taxes are now prohibitively high. Here are some examples of license costs in Helena both under present law and under HB-240:

		HB-240
1985 BMW K100RT	$285.17	$303.15
1984 BMW R100RT	183.15	194.85
1984 Honda GL 1200A	206.98	220.36
1985 Harley-Davidson w/ sidecar	452.53	481.28

Considering that automobile license fees are between $70 and $90 it is clear that motorcycles, a seasonal transportation vehicle, are grossly over-taxed. This confiscatory taxation is harming the 69 franchised and 13 non-franchised dealers in the state. These businesses along with the 593 jobs they create in Montana with a payroll of $8,637,000 in 1984 are in jeopardy with either the current taxation scheme or the increase provided by HB-240.

Besides the direct effect on these 82 businesses the tax increase will affect the 48,901 motorcyclists. Industry figures estimate there are 24,451 untitled off-road motorcycles in the state. Adding both together and counting three persons to a household there may be 220,056 Montanans with a motorcycle in the household. On behalf of these Montanans I urge you to either amend HB-240 to provide an equitable tax rate for motorcyclists or to support either HB-36 or 101 which would provide a flat fee for motorcycle licenses.

Montana's motorcyclists are more than willing to carry their share of the tax costs. However taxes that are five and six times the amount for automobiles which use the roads all twelve months are tremendously unfair. The inflating costs of new vehicles has caused the license fees to rise greatly in the last few years and both combined are causing many Montana motorcyclists and dealers to "go broke".

VISITORS' REGISTER

TAXATION COMMITTEE

BILL NO. House Bill 240 DATE February 1, 1985

SPONSOR RepresentativeRamirez

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
[illegible] Bierr	Clancy	✓	
Dal Smilie	Helena		✓
Jim McAllep	Helena		✓
T.M. Collins	Troy		✓
Karla Gray	Butte		✓
Jean Williams	Butte		✓
Mary A Langley	Helena		✓
[illegible] Judge	Helena	amend	
Phil Campbell	Rep. MEA		✓
Dave Goss	BIGS CHAMBER OF COMMERCE	Amend ✓	
Louise Kunz	MCIC		✓
Richard Clark	Helena		✓
Don Allen	Helena		✓
Les Loble	Northwest Airlines	✓	
Ben Havdahl	Mont Motor Carriers		✓
[illegible] Lynn Thimsen	MT Fed Teachers		✓
[illegible]	MTN. BELL	SUPPORT AMENDMENTS	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

CS-33

MINUTES OF THE MEETING
TAXATION COMMITTEE
MONTANA STATE
HOUSE OF REPRESENTATIVES

March 28, 1985 A.M.

The fifty-third meeting of the Taxation Committee was called to order in room 312-1 of the state capitol at 7:36 a.m. by Chairman Gerry Devlin.

ROLL CALL: All members were present as were Dave Bohyer, Researcher for the Legislative Council, and Alice Omang, secretary.

DISPOSITION OF SENATE BILL 48: Representative Williams moved that this bill BE CONCURRED IN. He offered Exhibit 1, which are proposed amendments to this bill. He explained what the amendments would do. There was considerable discussion on this amendment and a vote was taken and the motion carried with Representative Devlin voting no.

Representative Ream moved that the bill be amended as per Exhibit 2. He explained these amendments. There was considerable discussion on the amendment and a vote was taken and the motion carried unanimously.

Representative Williams moved that this bill DO PASS AS AMENDED. Representative Switzer made a substitute motion that this bill DO NOT PASS, AS AMENDED.

Representative Williams said that he would oppose this motion as this was a two-year study by the house revenue oversight committee, they put a lot of effort into it and considerable work was done to make a bill that would be acceptable. He contended that this bill would create fairness and equity in taxation and would have as little impact as possible for local government.

Chairman Devlin disagreed that it did not hurt anybody as it would raise the rate on agricultural tools, machinery, and equipment and if he agreed with this, he just better not go home. He said that it may not be much, but most of the people his way feel that it is too much already.

Representative Williams explained that Representative Switzer came in late in the interim period and he informed the committee of the details concerning how SB 48 came about.

There was much discussion on the bill and the amendments and a vote was taken and the adoption of the amendments failed on a 10 to 10 vote. See Roll Call Vote.

Representative Ramirez said that he did not want to bring the bill to the floor of the house without those amendments and recommended that they table the bill.

Chairman Devlin indicated that he was very disappointed and he felt that this was not fair and he entertained a motion to reconsider their action on this amendment.

Representative Asay moved that they reconsider their action on this vote. Representative Keenan, Representative Raney and Representative Ream offered statements, indicating why they voted as they did on these amendments.

A vote was taken on the motion to RECONSIDER THEIR ACTION on these amendments and it failed on a tie vote of 10 to 10. See Roll Call Vote.

Representative Williams moved to TABLE this bill. The motion carried with Representatives Hanson, Asay, Sands, Ellison, Gilbert, Switzer and Patterson voting no.

DISPOSITION OF HOUSE BILL 240: Representative Williams moved to TABLE this bill. The motion carried with Representatives Asay, Gilbert, Switzer and Devlin voting no.

DISPOSITION OF HOUSE BILL 198: Representative Harp moved to amend this bill on page 2, line 10 by striking "0" and inserting "5" and to readjust the percentages of increase and the taxable percentages too. A vote was taken on the amendment and the motion carried with Representative Abrams, Representative Asay, Representative Sand, Representative Iverson, Representative Ellison, Representative Patterson, Representative Switzer and Representative Devlin voting no.

HOUSE TAXATION COMMITTEE

Bills Tabled: March 30, 1985

HB 42 - Koehnke	Exempt all sewage disposal systems & domestic water supply systems of residential dwellings
HB 36 - Kitselman	To replace the present system of taxation of motorcycles with a fee system;
HB 41 - Hannah	To repeal the realty transfer act.
HB 64 - Cody	To eliminate property taxes on livestock;
HB 68 - Hand	To revise the property tax exemption for fraternal organizations;
HB 73 - Holliday	To exempt for inheritance tax purposes property distribued or passing to a decendent's parent;
HB 120 - Nathe	To increase the cigarette tax from 16 to 24 cents, using funds for medicaid, devopmental disabilities and renal disease treatment;
HB 151 - Keyser	To raise from $100 to $800 the maximum tax liability triggering mandatory waiver of the requirement for filing a quarterly special fuels tax return;
HB 208 - Menahan	To allow automobile liability insurance expenses as a deduction in computing net income for state income tax purposes;
HB 231 - Swift	To exempt from taxation up to $3,600 of public retirement benefits paid by another state & increase exemption from $360 to $3,600;
HB 240 - Ramirez	To generally revise Montana property tax classification law to comply with federal law
HB 250 - Ramirez	To establish the method for determining the tax rate applicable to certain types of property;
HB 287 - Moore	To revise the business investment credit, increasing to 30% of federal credit;
HB 311 - Koehnke	To extend the tax incentive for production of alcohol as a component of gasohol;
HB 319 - Devlin	To allow gasoline distributors to deduct 2 percent of tax as evaporation allowance;
HB 322 - Moore	To create a 20% surtax on certain property owned by a foreign person;
HB 326 - Hannah	To repeal the existing individual income tax and impose a state income tax based on percentage of federal income.
HB 392 - Waldron	To impose a statewide tax on the users of hotel, motel, or tourist campground accommodations;

MONTANA STATE SENATE

SENATE TAXATION COMMITTEE

49TH LEGISLATURE

COMMITTEE MEMBERS:	Senator Tom Towe, Chairman Senator Joe Mazurek, Vice-Chairman Senator Bob Brown Senator Dorothy Eck Senator Pat Goodover Senator Tom Hager Senator Mike Halligan Senator Les Hirsch Senator Ray Lybeck Senator George McCallum Senator Ted Neuman Senator Elmer Severson
STAFF ATTORNEY:	Jim Lear
SECRETARY:	Nancy Aagenes

CHAIRMAN--TOWE, TOM
SECRETARY-AAGENES, NANCY
NORMAL SCHEDULE==> SITE: ROOM 413/415 DAYS: M-TU-W-TH-F TIME: 8:00-10:00 A.M.

--BILL NO---	REFER DATE---	HEARING DATE---	CONSIDERATION DATES----------	COMMITTEE ACTION----------	REREFERRED TO COMM----	DATE OUT-
HB0177	1/30	2/16	3/20	CONCUR		3/20
REAM, BOB			INCREASED INTEREST ON PROPERTY TAXES PAID BY REDEMPTIONER			
HB0198	4/03	4/12	4/20	CONCUR AS AMENDED		4/20
RAMIREZ, JACK			ALLOWING NO INCREASE IN TAXABLE VALUE IN CLASS 3 OR 4 FROM REAPPRAISAL			
HB0240	4/25	4/25		CONCUR AS AMENDED		4/25
RAMIREZ, JACK			PROPERTY CLASSIFICATION REVISIONS TO COMPLY WITH FED. LAW; REALTY 1 CLASS			
HB0279	2/09	3/12	4/5	CONCUR		4/5
KITSELMAN, LES			RURAL IMPROVEMENT DISTRICTS - TRANSFER OF MONEY TO MAINTENANCE FUND			
HB0315	2/07	3/12	3/27	CONCUR		3/27
REHBERG, DENNIS R.			PRORATE TAXES ON COMMON ELEMENTS OF CONDOS AND SUBDIVISIONS			
HB0317	2/18		3/13, 3/21, 3/22	CONCUR AS AMENDED		3/22
WILLIAMS, J. MELVIN (MEL)			CLARIFYING THE DEFINITION OF LIVESTOCK FOR PROPERTY TAX PURPOSES			
HB0339	2/13	3/13		CONCUR		3/13
RAMIREZ, JACK			TAX INCREMENT FINANCING - AMEND TERMINATION PROVISIONS			
HB0346	2/07	3/13	3/20	CONCUR AS AMENDED		3/20
GILBERT, BOB			ALLOWING REFUND OF TAX ON AUTOMOTIVE FUEL USED IN AIRCRAFT			
HB0373	2/12	3/13		CONCUR		3/13
NATHE, DENNIS G.			DEFINING "ASSESSMENT BOOK"; INCLUDING COMPUTER SYSTEMS IN DEFINITION			
HB0374	4/03	4/15	4/16	CONCUR AS AMENDED	TAXATION	4/16
WALDRON, STEVE			RAISE BEER & WINE TAX TO DOUBLE MONEY FOR ALCOHOLISM PROGRAMS			
HB0374	4/16			CONCUR AS AMENDED		4/16
WALDRON, STEVE			RAISE BEER & WINE TAX TO DOUBLE MONEY FOR ALCOHOLISM PROGRAMS			

STATEMENT OF INTENT

HOUSE BILL 240

A statement of intent is required for this bill because section 10 of the bill requires the department of revenue to adopt rules describing which types of property within the several property classes are comparable property. The legislature intends that the term "comparable property" will be limited to comparisons of residential property with residential property, commercial property with commercial property, and so forth.

It is also the intent of the legislature that the department adopt rules establishing a method for conducting sales assessment ratio studies as required in the bill. The method provided in the rules should be statistically valid and conducted in a consistent, predictable manner, and only to the extent that the minimum requirements of federal legislation are met. The requirements to be met by the department, both under the provisions of this bill and under federal legislation, shall be met by using realty transfer certificates and other available data to the greatest extent possible.

Montana Legislative Council

ON MOTION RULES SUSPENDED, YELLOW PRINTING DISPENSED

THIRD READING

AS AMENDED

HB 240

HOUSE BILL NO. 240

INTRODUCED BY RAMIREZ, CRIPPEN, B. BROWN

BY REQUEST OF THE REVENUE OVERSIGHT COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT TO ~~GENERALLY~~ REVISE MONTANA PROPERTY TAX CLASSIFICATION LAW TO COMPLY WITH FEDERAL LAW GRANTING CERTAIN TYPES OF PROPERTY SPECIAL CONSIDERATION AND WITH PROVISIONS OF THE MONTANA CONSTITUTION; ~~REQUIRING--THE--DEPARTMENT--OF---REVENUE---TO ANNUALLY--REVALUE--ALL--COMMERCIAL--AND-INDUSTRIAL-PROPERTY;~~ REQUIRING THE DEPARTMENT OF REVENUE TO CONDUCT AUDITS OF ASSESSMENTS ON ~~CLASS-FOUR-AND-CLASS-NINE~~ COMMERCIAL PERSONAL PROPERTY ~~AND--IMPROVEMENTS~~; REQUIRING THE DEPARTMENT OF REVENUE TO ANNUALLY DETERMINE THE TAXABLE PERCENTAGE RATE APPLICABLE TO CLASS ~~FOUR-REAL-PROPERTY-AND-IMPROVEMENTS-TO RESULT-IN--A--ZERO--PERCENTAGE--INCREASE--IN--THE--STATEWIDE TAXABLE--VALUE--OF-SUCH~~ THIRTEEN PROPERTY; DEFINING THE TERM "COMMERCIAL" AS IT APPLIES TO PROPERTY SUBJECT TO TAXATION; ~~CLARIFYING---THE---TERM--"MARKET--VALUE"--FOR--PROPERTY--TAX PURPOSES;~~ AMENDING SECTIONS 15-1-101, ~~15-6-101,~~ 15-6-134, ~~15-6-135,--15-6-137--THROUGH~~ 15-6-138, 15-6-141, ~~15-6-151, 15-7-111,-15-7-202,-15-7-307,~~ 15-8-104, 15-8-111, ~~15-16-611,~~ AND 15-23-202, MCA; ~~REPEALING--SECTION--15-6-142,--MCA;~~ AND PROVIDING EFFECTIVE DATES."

WHEREAS, the federal government has granted special consideration to certain types of property with respect to property taxation; and

WHEREAS, the Legislature and the people of the State of Montana desire to be in full compliance with all federal law; and

WHEREAS, there have been questions in the past regarding the validity of Montana's property tax classification laws with respect to federal law granting special consideration to certain types of property; and

WHEREAS, state tax policy is best determined by the state's primary policymaking body, which is the Legislature; and

WHEREAS, the Legislature wishes to retain as much as possible the sovereignty guaranteed to the state by the 10th amendment to the Constitution of the United States; and

WHEREAS, the 48th Legislature of the State of Montana adopted House Joint Resolution 31, requiring a study of Montana's property tax classification system; and

WHEREAS, the Revenue Oversight Committee has examined Montana's property tax system; and

WHEREAS, that examination causes the Revenue Oversight Committee to recommend a general revision of Montana's property tax classification system.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 15-1-101, MCA, is amended to read:

"15-1-101. Definitions. (1) When terms mentioned in this section are used in connection with taxation, they are defined in the following manner:

(a) The term "agricultural" refers to the raising of livestock, swine, poultry, field crops, fruit, and other animal and vegetable matter for food or fiber.

(b) The term "assessed value" means the value of property as defined in 15-8-111.

(c) The term "average wholesale value" means the value to a dealer prior to reconditioning and profit margin shown in national appraisal guides and manuals or the valuation schedules of the department of revenue.

(d) (I) The term "commercial", when used to describe property, means any property used or owned by a business, a trade, or a nonprofit corporation as defined in 35-2-102 or used for the production of income, EXCEPT THAT PROPERTY DESCRIBED IN SUBSECTION (II).

(II) THE FOLLOWING TYPES OF PROPERTY ARE NOT COMMERCIAL:

(A) AGRICULTURAL LANDS;

(B) TIMBERLANDS;

(C) SINGLE-FAMILY RESIDENCES AND ANCILLARY IMPROVEMENTS AND IMPROVEMENTS NECESSARY TO THE FUNCTION OF A

BONA FIDE FARM, RANCH, OR STOCK OPERATION;

(D) MOBILE HOMES USED EXCLUSIVELY AS A RESIDENCE EXCEPT WHEN HELD BY A DISTRIBUTOR OR DEALER OF TRAILERS OR MOBILE HOMES AS HIS STOCK IN TRADE;

(E) ALL PROPERTY DESCRIBED IN 15-6-135;

(F) ALL PROPERTY DESCRIBED IN 15-6-136; AND

(G) ALL PROPERTY DESCRIBED IN [SECTION 6].

(E) THE TERM "COMPARABLE PROPERTY" MEANS PROPERTY THAT HAS SIMILAR USE, FUNCTION, AND UTILITY; THAT IS INFLUENCED BY THE SAME SET OF ECONOMIC TRENDS AND PHYSICAL, GOVERNMENTAL, AND SOCIAL FACTORS; AND THAT HAS THE POTENTIAL OF A SIMILAR HIGHEST AND BEST USE.

~~(d)~~(e)(F) The term "credit" means solvent debts, secured or unsecured, owing to a person.

~~(e)~~(f)(G) The term "improvements" includes all buildings, structures, ~~fixtures,~~ fences, and improvements situated upon, erected upon, or affixed to land. When the department of revenue or its agent determines that the permanency of location of a mobile home or housetrailer has been established, the mobile home or housetrailer is presumed to be an improvement to real property. A mobile home or housetrailer may be determined to be permanently located only when it is attached to a foundation which cannot feasibly be relocated and only when the wheels are removed.

~~(f)~~ (H) The term "leasehold improvements" means improvements to mobile homes and mobile homes located on land owned by another person. This property is assessed under the appropriate classification and the taxes are due and payable in two payments as provided in 15-24-202. Delinquent taxes on such leasehold improvements are a lien only on such leasehold improvements.

~~(g)~~ (I) The term "mobile home" means forms of housing known as "trailers", "housetrailers", or "trailer coaches" exceeding 8 feet in width or 45 feet in length, designed to be moved from one place to another by an independent power connected to them, or any "trailer", "housetrailer", or "trailer coach" up to 8 feet in width or 45 feet in length used as a principal residence.

~~(h)~~ (J) The term "personal property" includes everything that is the subject of ownership but that is not included within the meaning of the terms "real estate" and "improvements".

~~(i)~~ (K) The term "poultry" includes all chickens, turkeys, geese, ducks, and other birds raised in domestication to produce food or feathers.

~~(j)~~ (L) The term "property" includes moneys, credits, bonds, stocks, franchises, and all other matters and things, real, personal, and mixed, capable of private ownership. This definition must not be construed to

authorize the taxation of the stocks of any company or corporation when the property of such company or corporation represented by the stocks is within the state and has been taxed.

~~(k)~~ (M) The term "real estate" includes:

(i) the possession of, claim to, ownership of, or right to the possession of land;

(ii) all mines, minerals, and quarries in and under the land subject to the provisions of 15-23-501 and 15-23-801; all timber belonging to individuals or corporations growing or being on the lands of the United States; and all rights and privileges appertaining thereto.

~~(l)~~ (N) The term "taxable value" means the percentage of market or assessed value as provided for in 15-6-131 through 15-6-140.

(2) The phrase "municipal corporation" or "municipality" or "taxing unit" shall be deemed to include a county, city, incorporated town, township, school district, irrigation district, drainage district, or any person, persons, or organized body authorized by law to establish tax levies for the purpose of raising public revenue.

(3) The term "state board" or "board" when used without other qualification shall mean the state tax appeal board."

~~Section 2. Section 15-6-101, MCA, is amended to read:~~

"15-6-101.--Property Purpose------property subject-to taxation----classification. (1) It is the purpose of this chapter to comply with federal law requiring special consideration of certain types of property. To meet the requirements of federal law, the legislature finds it necessary to separate the several types of property into classes, each class containing property reasonably related to other property in the same class and reasonably different from property in every other class. It is further the purpose of this chapter and the policy of the legislature to treat all similar property subject to taxation in an equitable manner.

(1)(2) All property in this state is subject to taxation, except as provided otherwise.

(2)(3) For the purpose of taxation, the taxable property in the state shall be classified in accordance with 15-6-131 through 15-6-141 this part."

Section 2. Section 15-6-134, MCA, is amended to read:

"15-6-134. Class four property -- description -- taxable percentage. (1) Class four property includes:

(a) all land, including, for farm homes, 1 acre of agricultural land at market value, except that specifically included in another class;

(b) all improvements except those specifically included in another class;

(c) a trailer or mobile home used as a residence except when:

(i) held by a distributor or dealer of trailers or mobile homes as his stock in trade; or

(ii) specifically included in another class;

(c)(d)(C) the first $35,000 or less of the market value of any improvement on real property and appurtenant land not exceeding 5 acres owned or under contract for deed and actually occupied for at least 10 months a year as the primary residential dwelling of:

(i) a widow or widower 62 years of age or older who qualifies under the income limitations of (iii) of this subsection;

(ii) a widow or widower of any age with dependent children who qualifies under the income limitations of (iii) of this subsection; or

(iii) a recipient or recipients of retirement or disability benefits whose total income from all sources including otherwise tax-exempt income of all types is not more than $8,000 for a single person or $10,000 for a married couple;

(e) the first $35,000 or less of the market value of a trailer or mobile home used as a residence and actually occupied for at least 10 months a year as the primary dwelling of any person described in subsections (1)(d)(i)

~~through (1)(d)(iii);~~

~~(d)~~ (f)(D) all golf courses, including land and improvements actually and necessarily used for that purpose, that:

(i) consist of at least 9 holes and not less than 3,000 lineal yards; and

(ii) were used as a golf course on January 1, 1979, and were owned by a nonprofit Montana corporation.

(2) Class four property is taxed as follows:

(a) ~~Except as provided in 15-24-1402 or 15-24-1501,~~ property Property EXCEPT AS PROVIDED IN 15-24-1402 OR 15-24-1501, PROPERTY described in subsections (1)(a) ~~and~~ ~~(1)(b) through (1)(c)~~ AND (1)(B) is taxed at ~~8.55%~~ the taxable percentage rate "P" 8.55% of its market value.

(b) Property described in ~~subsection (1)(c)~~ subsections ~~(1)(d) and (1)(e)~~ SUBSECTION (1)(C) is taxed at ~~8.55%~~ the taxable percentage rate "P" 8.55% of its market value multiplied by a percentage figure based on income and determined from the following table:

Income Single Person	Income Married Couple	Percentage Multiplier
$0 - $1,000	$0 - $1,000	0%
1,001 - 2,000	1,001 - 2,000	10%
2,001 - 2,800	2,001 - 3,000	20%
2,801 - 3,600	3,001 - 4,000	30%
3,601 - 4,400	4,001 - 5,000	40%
4,401 - 5,200	5,001 - 6,000	50%
5,201 - 6,000	6,001 - 7,000	60%
6,001 - 6,800	7,001 - 8,000	70%
6,801 - 7,600	8,001 - 9,000	80%
7,601 - 8,000	9,001 - 10,000	90%

(c) Property described in subsection ~~(1)(d)~~ (1)(f)(1)(D) is taxed at one-half the taxable percentage ~~established in subsection (2)(a), or 4.275%~~ rate "P" ESTABLISHED IN SUBSECTION (2)(A).

~~(3) Until July 1, 1986, the taxable percentage rate "P" for class four property is 8.55%.~~

~~(4) For 1986 and every year thereafter, the department of revenue shall, before July 1 of each year, determine the taxable percentage rate "P" applicable to class four property. The determination shall be made as provided in subsection (5).~~

~~(5) P = A/(1 + B), where:~~

~~(a) P is the taxable percentage rate applicable to class four property for the fiscal year beginning July 1 in the year in which P is calculated;~~

~~(b) A is the taxable percentage rate P applicable to class four property as established by the department for the immediately preceding year; and~~

~~(c) B is the certified statewide percentage increase~~

to be determined by the department as provided in subsection (6).

(6) The director of the department of revenue shall certify to the governor before July 1 of each year the percentage by which the appraised value of all property in the state classified under class four as of January 1 of the same year has increased due to the revaluation conducted under 15-7-111(2). This figure is the "certified statewide percentage increase".

(3) WITHIN THE MEANING OF COMPARABLE PROPERTY AS DEFINED IN 15-1-101, PROPERTY ASSESSED AS COMMERCIAL PROPERTY IS COMPARABLE ONLY TO OTHER PROPERTY ASSESSED AS COMMERCIAL PROPERTY, AND PROPERTY ASSESSED AS OTHER THAN COMMERCIAL PROPERTY IS COMPARABLE ONLY TO OTHER PROPERTY ASSESSED AS OTHER THAN COMMERCIAL PROPERTY."

Section 4. Section 15-6-135, MCA, is amended to read:

"15-6-135. Class five property description taxable percentage. (1) Class five property includes:

(a) all property used and owned by cooperative rural electrical and cooperative rural telephone associations organized under the laws of Montana, except property described in 15-6-139(1)(u) owned by cooperative organizations described in subsection (1)(c) of 15-6-137;

(b) air and water pollution control equipment as defined in this section;

(c) new industrial property as defined in this section;

(d) any personal or real property used primarily in the production of gasohol during construction and for the first 3 years of its operation.

(2) (a) "Air and water pollution equipment" means facilities, machinery, or equipment used to reduce or control water or atmospheric pollution or contamination by removing, reducing, altering, disposing, or storing pollutants, contaminants, wastes, or heat. The department of health and environmental sciences shall determine if such utilization is being made.

(b) The department of health and environmental sciences' determination as to air and water pollution equipment may be appealed to the board of health and environmental sciences and may not be appealed to either a county tax appeal board or the state tax appeal board. However, the appraised value of the equipment as determined by the department of revenue may be appealed to the county tax appeal board and the state tax appeal board.

(3) "New industrial property" means any new industrial plant, including land, buildings, machinery, and fixtures, used by new industries during the first 3 years of their operation. The property may not have been assessed within the state of Montana prior to July 1, 1961.

~~(4)--(a)-"New--industry"-means-any-person,-corporation,-firm,--partnership,--association,--or---other---group---that establishes--a--new--plant-in-Montana-for-the-operation-of-a new--industrial--endeavor,--as--distinguished--from--a--mere expansion,---reorganization,---or---merger--of--an--existing industry.~~

~~(b)--New-industry-includes-only-those-industries--that:~~

~~(i)--manufacture,--mill,--mine,--produce,--process,--or fabricate-materials;~~

~~(ii)-do-similar-work,-employing-capital-and--labor,--in which--materials--unserviceable--in--their-natural-state-are extracted,--processed,--or--made--fit---for---use---or---are substantially--altered-or-treated-so-as-to-create-commercial products-or-materials;-or~~

~~(iii)-engage---in---the----mechanical----or-----chemical transformation--of-materials-or-substances-into-new-products in-the-manner-defined-as-manufacturing-in-the-1972--Standard Industrial--Classification--Manual--prepared--by--the-United States-office-of-management-and-budget.~~

~~(5)--New-industrial-property-does-not-include:~~

~~(a)--property-used-by-retail--or--wholesale--merchants, commercial--services--of--any--type,-agriculture,-trades,-or professions;~~

~~(b)--a--plant--that--will--create--adverse--impact---on existing-state,-county,-or-municipal-services,-or~~

~~(c)--property--used-or-employed-in-any-industrial-plant that-has-been-in-operation-in-this--state--for--3--years--or longer.~~

~~(6)--Class--five--property-is-taxed-at-3%-of-its-market value."~~

Section 5.--Section 15-6-137, MCA, is amended to read:

"15-6-137.--Class--seven--property------description---- taxable-percentage.--(1)-Class-seven-property-includes:

(a)--all-property-used-and--owned--by--persons,--firms, corporations,-or-other-organizations-that-are-engaged-in-the business--of-furnishing-telephone-communications-exclusively to-rural-areas-or-to-rural-areas-and-cities-and-towns-of-800 persons-or-less;

(b)--all-property-owned-by-cooperative-rural-electrical and-cooperative-rural-telephone-associations-that-serve-less than-95%-of-the-electricity--consumers--or--telephone--users within-the-incorporated-limits-of-a-city-or-town;

(c)--electric--transformers--and-meters;-electric-light and-power-substation-machinery;-natural--gas--measuring--and regulating-station-equipment,-meters,-and-compressor-station machinery--owned--by-noncentrally-assessed-public-utilities; and-tools--used--in--the--repair--and--maintenance--of--this property;-and

(d)--tools,--implements,--and--machinery-used-to-repair and-maintain-machinery-not-used-for-manufacturing-and-mining

purposes.

~~(2) To qualify for this classification, the average circuit miles for each station on the telephone communication system described in subsection (1)(b) must be more than 1 mile.~~ used for noncommercial purposes which is not real property or an improvement to real property and which is not in another class or exempt from taxation under Title 15, chapter 6, part 2, and

~~(b) all agricultural tools, machinery, and equipment used in a bona fide farm, ranch, or stock operation.~~

~~(3)~~(2) ~~Class seven property is taxed at 8% 11.1%~~ of ~~its market value.~~"

Section 3. Section 15-6-138, MCA, is amended to read:

"15-6-138. Class eight property -- description -- taxable percentage. (1) Class eight property includes~~:~~:

~~(a) all agricultural implements and equipment;~~ commercial timberland;

~~(b) all mining machinery, fixtures, equipment, tools, and supplies except:~~

~~(i) those included in class five; and~~

~~(ii) coal and ore haulers;~~

~~(c) all manufacturing machinery, fixtures, equipment, tools, and supplies except those included in class five;~~

~~(d) motorcycles;~~

~~(e) watercraft;~~

~~(f) all trailers up to and including 18,000 pounds maximum gross loaded weight, except those subject to a fee in lieu of property tax;~~

~~(g) aircraft;~~

~~(h) all terrain vehicles;~~

~~(i) harness, saddlery, and other tack equipment;~~

~~(j) all goods and equipment intended for rent or lease, except goods and equipment specifically included and taxed in another class; and~~

~~(k) all other machinery except that specifically included in another class.~~

(A) ALL AGRICULTURAL IMPLEMENTS AND EQUIPMENT;

(B) ALL MINING MACHINERY, FIXTURES, EQUIPMENT, TOOLS, AND SUPPLIES EXCEPT:

(I) THOSE INCLUDED IN CLASS FIVE; AND

(II) COAL AND ORE HAULERS;

(C) ALL MANUFACTURING MACHINERY, FIXTURES, EQUIPMENT, TOOLS, AND SUPPLIES EXCEPT THOSE INCLUDED IN CLASS FIVE;

(D) ALL TRAILERS UP TO AND INCLUDING 18,000 POUNDS MAXIMUM GROSS LOADED WEIGHT, EXCEPT THOSE SUBJECT TO A FEE IN LIEU OF PROPERTY TAX;

(E) AIRCRAFT;

(F) ALL GOODS AND EQUIPMENT INTENDED FOR RENT OR LEASE, EXCEPT GOODS AND EQUIPMENT SPECIFICALLY INCLUDED AND TAXED IN ANOTHER CLASS; AND

(G) ALL OTHER MACHINERY EXCEPT THAT SPECIFICALLY INCLUDED IN ANOTHER CLASS.

~~(2)--Commercial-timberland-is-all-land-in-one-ownership and-from-which-is-harvested-30,000-or-more-board-feet-in-any year-during-the-appraisal-cycle;~~

~~(2)~~(3)(2) Class eight property is taxed at ~~11%~~ 30% 11% of ~~its--market--value~~ the combined appraised value of the standing timber and grazing productivity of the property ITS MARKET VALUE."

~~Section-7:--Section-15-6-139,-MCA,-is-amended-to--read:~~

~~"15-6-139.--Class---nine--property------description---- taxable-percentage.--(1)-Class-nine-property~~ is all property used for commercial purposes that is not real property or an improvement to real property and which is ~~--not--included--in another--class--or--exempt--from--taxation--under--Title-15, chapter-6,-part-2,-and~~ includes:

~~(a)--buses-and-trucks-having-a-rated-capacity--of--more than-three-quarters-of-a-ton-but-less-than-or-equal-to-1-1/2 tons;~~

~~(b)--truck-toppers-weighing-more-than-300-pounds;~~

~~(c)--furniture,--fixtures,--and--equipment,-except-that specifically-included-in-another-class,-used--in--commercial establishments-as-defined-in-this-section;~~

~~(d)--x-ray-and-medical-and-dental-equipment;-and~~

~~(e)--citizens'-band-radios-and-mobile-telephones.;~~

~~(f)--all--mining-machinery,-fixtures,-equipment,-tools, and-supplies-except-those-included-in-class-five;~~

~~(g)--all-manufacturing-machinery,-fixtures,--equipment, tools,-and-supplies-except-those-included-in-class-five;~~

~~(h)--motorcycles;~~

~~(i)--watercraft;~~

~~(j)--all--trailers--up--to--and-including-10,000-pounds maximum-gross-loaded-weight,-except-those-subject-to--a--fee in-lieu-of-property-tax;~~

~~(k)--aircraft;~~

~~(l)--all-terrain-vehicles;~~

~~(m)--harness,-saddlery,-and-other-tack-equipment;~~

~~(n)--all--goods--and--equipment--intended--for--rent-or lease,-except-goods-and-equipment-specifically-included--and taxed-in-another-class;~~

~~(o)--all---other--machinery--except--that--specifically included-in-another-class;~~

~~(p)--radio-and-television-broadcasting-and-transmitting equipment;~~

~~(q)--cable-television-systems;~~

~~(r)--coal-and-ore-haulers;~~

~~(s)--all-trailers-exceeding-10,000-pounds-maximum-gross loaded-weight,-including-those-prorated-under-15-24-102--and except-those-subject-to-a-fee-in-lieu-of-property-tax;~~

~~(t)--theater-projectors-and-sound-equipment;~~

(u)--electric--transformers--and-meters;-electric-light and-power-substation-machinery;-natural--gas--measuring--and regulating-station-equipment;-meters;-and-compressor-station machinery--owned--by-noncentrally-assessed-public-utilities; and-tools--used--in--the--repair--and--maintenance--of--this property;

(v)--tools;--implements;--and--machinery-used-to-repair and-maintain-machinery-not-used-in-a-bona-fide--agricultural operation-or-for-manufacturing-or-mining-purposes;-and

(w)--all-other-property-not-included-in-any-other-class except--that-property-subject-to-a-fee-in-lieu-of-a-property tax-and-property-exempt-from-taxation.

(2)--"Commercial--establishment"--includes--any--hotel; motel;--office;--petroleum--marketing--station;--or-service; wholesale;-retail;-or-food-handling-business.

(3)--Class-nine-property-is-taxed-at-13% 11.7% of--its market-value."

Section-8.--Section--15-6-140;-MCA;-is-amended-to-read:

"15-6-140.--Class--ten--property-------description----- taxable-percentage.--(1)-Class-ten-property-includes:

(a)--radio-and-television-broadcasting-and-transmitting equipment;

(b)--cable-television-systems;

(c)--coal-and-ore-haulers;

(d)--trucks--having-a-rated-capacity-of-more-than-1-1/2

tons;-including-those-prorated-under-15-24-102;

(e)--all-trailers-exceeding-18,000-pounds-maximum-gross loaded-weight;-including-those-prorated-under-15-24-102--and except-those-subject-to-a-fee-in-lieu-of-property-tax;

(f)--theater-projectors-and-sound-equipment;-and

(g)--all--other--property-not-included-in-the-preceding nine-classes-except-that-property-subject-to-a-fee--in--lieu of-a-property-tax.

(a)--all--railroad-transportation-property-as-described in-the-Railroad-Revitalization-and-Regulatory-Reform-Act--of 1976-as-it-reads-on-[the-effective-date-of-this-act];

(b)--all--airline--transportation-property-as-described in-the-Tax-Equity-and-Fiscal-Responsibility-Act-of--1982--as it-reads-on-[the-effective-date-of-this-act];-and

(c)--all---motor--carrier--transportation--property--as described-in-the-Motor-Carrier-Act-of-1980-as--it--reads--on [the-effective-date-of-this-act].

(2)--Class--ten--property-is-taxed-at-16%-of-its-market value. the-percentage-rate-"R",--to--be--determined--by--the department-as-provided-in-subsection-(3).

(3)--R-=-(A-+-B-+-C-+-D)/E,-where:

(a)--R--is--the--taxable-percentage-applicable-to-class ten-property;

(b)--A-is-the-total--statewide--taxable--value--of--all commercial--real-property-and-improvements-included-in-class

four-and-is-determined-by-multiplying--the--total--statewide market--value--of--such--class--four-property-by-the-taxable percentage-rate-"P"-provided-in-15-6-134;

(c)--B-is-the-total--statewide--taxable--value--of--all property--included--in--class--nine--and--is--determined--by multiplying-the-total-statewide-market-value-of--class--nine property-by-the-taxable-percentage-provided-in-15-6-139;

(d)--C--is--the--total--statewide--taxable-value-of-all property-described-in-15-6-141(1)(a);--(1)(b);--(1)(d);--and (1)(e)--and-is-determined-by-multiplying-the-total-statewide market-value-of-the-property-described-in-those--subsections by-the-taxable-percentage-provided-in-15-6-141(2)(a);

(e)--D--is--the--total--statewide--taxable-value-of-all property-described-in-15-6-141(1)(c)-and--is--determined--by multiplying-the-total-statewide-market-value-of-the-property described---in--15-6-141(1)(c)--by--the--taxable--percentage provided-in-15-6-141(2)(b);-and

(f)--E-is-the-total-statewide-market-value-of:

(i)--all-property-included--in--class--nine--and--class eleven;-and

(ii)-all--commercial--real--property--and--improvements included-in-class-four:

(4)--For-the-purpose-of--complying--with--the--Railroad Revitalization--and--Regulatory--Reform-Act-of-1976,-the-Tax Equity-and-Fiscal-Responsibility-Act-of-1982,-and-the--Motor

Carrier--Act-of-1980,-as-they-read-on-the-effective-date-of this-act):

(a)--the-rate-"R"-referred-to-in-subsection-(2)-is--the average--tax--rate--generally--applicable--to-commercial-and industrial-property-in-Montana;-and

(b)--"commercial--and--industrial--property"---is---all property--included--in--class--nine-and-class-eleven-and-all commercial-real-property-and-improvements-included-in--class four:"

Section 4. Section 15-6-141, MCA, is amended to read:

"15-6-141. Class eleven property -- description -- taxable percentage. (1) Class eleven property includes:

(a) centrally assessed electric power companies' allocations;

(b) allocations for centrally assessed natural gas companies having a major distribution system in this state; and

(c) centrally assessed companies' allocations except:

(i) electric power and natural gas companies' property;

(ii) property owned by cooperative rural electric and cooperative rural telephone associations and classified in class five; and

(iii) property owned by organizations providing telephone communications to rural areas and classified in

class ~~seven~~ ~~nine~~ SEVEN; and

(iv) ~~motor carrier~~ airline and railroad transportation property included in class ~~ten~~ THIRTEEN.

~~(d) all property used and owned by persons, firms, corporations, or other organizations that are engaged in the business of furnishing telephone communications exclusively to rural areas or to rural areas and cities and towns of 800 persons or less; and~~

~~(e) all property owned by cooperative rural electrical and cooperative rural telephone associations that serve less than 95% of the electricity consumers or telephone users within the incorporated limits of a city or town where the average circuit miles for each station on the telephone communication system is more than 1 mile;~~

(2) Class eleven property is taxed as follows:

(a) Property described in ~~subsection~~ subsections (1)(a) ~~;~~ and AND (1)(b) ~~; (1)(d); and (1)(e)~~ is taxed at ~~12%~~ ~~12.8%~~ 12% of market value.

(b) Except as provided in 15-23-202, property described in subsection (1)(c) is taxed at ~~15%~~ ~~12.8%~~ 15% of market value."

~~Section 10. Section 15-6-151, MCA, is amended to read:~~

~~"15-6-151. Application for certain class four classifications. (1) A person applying for classification of property described in subsection (1)(c) (1)(d) or (1)(e)~~

~~of 15-6-134 shall make an affidavit to the department of revenue, on a form provided by the department without cost, stating:~~

~~(a) his income;~~

~~(b) his retirement benefits;~~

~~(c) his marital status;~~

~~(d) the fact that he maintains the land and improvements as his primary residential dwelling, where applicable; and~~

~~(e) such other information as is relevant to the applicant's eligibility.~~

~~(2) This application must be made before March 1 of the year after the applicant becomes eligible. The application remains in effect in subsequent years unless there is a change in the applicant's eligibility. The taxpayer shall inform the department of any change in eligibility. The department may inquire by mail whether any change in eligibility has taken place and may require a new statement of eligibility at any time it considers necessary.~~

~~(3) The affidavit is sufficient if the applicant signs a statement affirming the correctness of the information supplied, whether or not the statement is signed before a person authorized to administer oaths, and mails the application and statement to the department of revenue. This signed statement shall be treated as a statement under~~

oath or equivalent affirmation for the purposes of 45-7-202, relating to the criminal offense of false swearing."

Section 11. Section 15-7-202, MCA, is amended to read:

"15-7-202. Eligibility of land for valuation as agricultural. (1) Land which is actively devoted to agricultural use shall be eligible for valuation, assessment, and taxation as herein provided each year it meets any of the following qualifications:

(a) the area of such land is not less than 5 contiguous acres when measured in accordance with provisions of 15-7-206, and it has been actively devoted to agriculture during the last growing season, and it continues to be actively devoted to agricultural use, which means:

(i) it is used to produce field crops including but not limited to grains, feed crops, fruits, vegetables; or

(ii) it is used for grazing and it is not classified as commercial timberland as defined in 15-6-138; or

(iii) it is used for growing timber; or

(iv)(iii) it is in a cropland retirement program; or

(b) it agriculturally produces for sale or home consumption the equivalent of 15% or more of the owners' annual gross income regardless of the number of contiguous acres in the ownership; or

(c) it is used to raise animals in confined areas for the production of food or fiber, including but not limited

to livestock, feedlots, dairies, fish hatcheries, and poultry farms.

(2) Land shall not be classified or valued as agricultural if it is subdivided with stated restrictions prohibiting its use for agricultural purposes.

(3) The grazing on land by a horse or other animals kept as a hobby and not as a part of a bona fide agricultural enterprise shall not be considered a bona fide agricultural operation."

Section 12. Section 15-7-307, MCA, is amended to read:

"15-7-307. Certificate exceptions. The certificate imposed by this part shall not apply to:

(1) an instrument recorded prior to July 1, 1975;

(2) the sale of agricultural land when the land is used for agricultural purposes;

(3) the United States of America, this state, or any instrumentality, agency, or subdivision thereof;

(4) an instrument which (without added consideration) confirms, corrects, modifies, or supplements a previously recorded instrument;

(5) a transfer pursuant to court decree;

(6) a transfer pursuant to mergers, consolidations, or reorganizations of corporations, partnerships, or other business entities;

(7) a transfer by a subsidiary corporation to its

~~parent--corporation--without-actual-consideration-or-in-sole consideration-of-the-cancellation-or-surrender-of-subsidiary stock;~~

~~(8)--a-transfer-of-decedents'-estates;~~

~~(9)--a-transfer-of-a-gift;~~

~~(10)-a-transfer-between-husband-and-wife-or-parent--and child-with-only-nominal-actual-consideration-therefor;~~

~~(11)-an--instrument--the-effect-of-which-is-to-transfer the-property-to-the-same-party-or-parties;~~

~~(12)-a--sale--for--delinquent--taxes--or---assessments; sheriff-sale;-bankruptcy-action;-or-mortgage-foreclosure;~~

~~(13)-a-transfer-made-in-contemplation-of-death.;-or~~

~~(14)-the-sale-of-timberland-when-the-land-is-classified for-tax-purposes-as-commercial-timberland.~~"

NEW SECTION. SECTION 5. CLASS THIRTEEN PROPERTY -- DESCRIPTION -- TAXABLE PERCENTAGE. (1) CLASS THIRTEEN PROPERTY INCLUDES:

(A) ALL RAILROAD TRANSPORTATION PROPERTY AS DESCRIBED IN THE RAILROAD REVITALIZATION AND REGULATORY REFORM ACT OF 1976 AS IT READ ON [THE EFFECTIVE DATE OF THIS ACT]; AND

(B) ALL AIRLINE TRANSPORTATION PROPERTY AS DESCRIBED IN THE TAX EQUITY AND FISCAL RESPONSIBILITY ACT OF 1982 AS IT READ ON [THE EFFECTIVE DATE OF THIS ACT].

(2) FOR THE TAXABLE YEAR BEGINNING JANUARY 1, 1986, AND FOR EACH TAXABLE YEAR THEREAFTER, CLASS THIRTEEN

PROPERTY IS TAXED AT THE PERCENTAGE RATE "R", TO BE DETERMINED BY THE DEPARTMENT AS PROVIDED IN SUBSECTION (3).

(3) R = (A(M) + B + C + D + E + F / L) WHERE, AS OF JANUARY 1 OF EACH TAXABLE YEAR FOR WHICH R IS BEING CALCULATED:

(A) R IS THE TAXABLE PERCENTAGE RATE APPLICABLE TO CLASS THIRTEEN PROPERTY;

(B) A IS THE TOTAL STATEWIDE TAXABLE VALUE OF ALL COMMERCIAL PROPERTY INCLUDED IN CLASS FOUR AND IS DETERMINED BY MULTIPLYING THE TOTAL STATEWIDE MARKET VALUE OF SUCH PROPERTY BY THE TAXABLE PERCENTAGE RATE PROVIDED IN 15-6-134;

(C) B IS THE TOTAL STATEWIDE TAXABLE VALUE OF ALL COMMERCIAL PROPERTY INCLUDED IN CLASS SEVEN AND IS DETERMINED BY MULTIPLYING THE TOTAL STATEWIDE MARKET VALUE OF CLASS SEVEN COMMERCIAL PROPERTY BY THE TAXABLE PERCENTAGE RATE PROVIDED IN 15-6-137;

(D) C IS THE TOTAL STATEWIDE TAXABLE VALUE OF ALL COMMERCIAL PROPERTY INCLUDED IN CLASS EIGHT AND IS DETERMINED BY MULTIPLYING THE TOTAL STATEWIDE MARKET VALUE OF CLASS EIGHT COMMERCIAL PROPERTY BY THE TAXABLE PERCENTAGE RATE PROVIDED IN 15-6-138;

(E) D IS THE TOTAL STATEWIDE TAXABLE VALUE OF ALL COMMERCIAL PROPERTY INCLUDED IN CLASS NINE AND IS DETERMINED BY MULTIPLYING THE TOTAL STATEWIDE MARKET VALUE OF CLASS

NINE COMMERCIAL PROPERTY BY THE TAXABLE PERCENTAGE RATE PROVIDED IN 15-6-139;

(F) E IS THE TOTAL STATEWIDE TAXABLE VALUE OF ALL COMMERCIAL PROPERTY INCLUDED IN CLASS TEN AND IS DETERMINED BY MULTIPLYING THE TOTAL STATEWIDE MARKET VALUE OF CLASS TEN COMMERCIAL PROPERTY BY THE TAXABLE PERCENTAGE RATE PROVIDED IN 15-6-140;

(G) F IS THE TOTAL STATEWIDE TAXABLE VALUE OF ALL COMMERCIAL PROPERTY INCLUDED IN CLASS ELEVEN AND IS DETERMINED BY MULTIPLYING THE TOTAL STATEWIDE MARKET VALUE OF CLASS ELEVEN COMMERCIAL PROPERTY BY THE TAXABLE PERCENTAGE RATE PROVIDED IN 15-6-141;

(H) L IS THE TOTAL STATEWIDE MARKET VALUE OF ALL COMMERCIAL PROPERTY INCLUDED IN CLASSES FOUR, SEVEN, EIGHT, NINE, TEN, AND ELEVEN; AND

(I) M IS THE VALUE-WEIGHTED MEAN SALES ASSESSMENT RATIO FOR ALL COMMERCIAL AND INDUSTRIAL REAL PROPERTY AND IMPROVEMENTS DETERMINED BY THE DEPARTMENT AS PROVIDED IN SUBSECTION (4).

(4) (A) FOR THE TAXABLE YEAR BEGINNING JANUARY 1, 1986, AND FOR EVERY TAXABLE YEAR THEREAFTER, THE DEPARTMENT SHALL CONDUCT A SALES ASSESSMENT RATIO STUDY OF ALL COMMERCIAL AND INDUSTRIAL REAL PROPERTY AND IMPROVEMENTS. THE STUDY MUST BE BASED ON:

(I) ASSESSMENTS OF SUCH PROPERTY AS OF JANUARY 1 OF

THE YEAR FOR WHICH THE STUDY IS BEING CONDUCTED; AND

(II) A STATISTICALLY VALID SAMPLE OF SALES USING DATA FROM REALTY TRANSFER CERTIFICATES FILED DURING THE SAME TAXABLE YEAR OR FROM THE IMMEDIATELY PRECEDING TAXABLE YEAR, BUT ONLY IF A SUFFICIENT NUMBER OF CERTIFICATES IS UNAVAILABLE FROM THE CURRENT TAXABLE YEAR TO PROVIDE A STATISTICALLY VALID SAMPLE.

(B) THE DEPARTMENT SHALL DETERMINE THE VALUE-WEIGHTED MEAN SALES ASSESSMENT RATIO "M" FOR ALL SUCH PROPERTY.

(5) FOR THE PURPOSE OF COMPLYING WITH THE RAILROAD REVITALIZATION AND REGULATORY REFORM ACT OF 1976 AND THE TAX EQUITY AND FISCAL RESPONSIBILITY ACT OF 1982, AS THEY READ ON [THE EFFECTIVE DATE OF THIS ACT]:

(A) THE RATE "R" REFERRED TO IN THIS SECTION IS THE AVERAGE TAX RATE GENERALLY APPLICABLE TO COMMERCIAL AND INDUSTRIAL PROPERTY IN MONTANA; AND

(B) "COMMERCIAL AND INDUSTRIAL PROPERTY" IS ALL COMMERCIAL PROPERTY INCLUDED IN CLASSES FOUR, SEVEN, EIGHT, NINE, TEN, AND ELEVEN.

NEW SECTION. SECTION 6. CLASS FOURTEEN PROPERTY -- DESCRIPTION -- TAXABLE PERCENTAGE. (1) CLASS FOURTEEN PROPERTY INCLUDES:

(A) MOTORCYCLES;

(B) WATERCRAFT;

(C) ALL-TERRAIN VEHICLES;

(D) HARNESS, SADDLERY, AND OTHER TACK EQUIPMENT;

(E) ALL OTHER PROPERTY USED FOR NONCOMMERCIAL PURPOSES WHICH IS NOT REAL PROPERTY OR AN IMPROVEMENT TO REAL PROPERTY AND WHICH IS NOT INCLUDED IN ANOTHER CLASS OR EXEMPT FROM TAXATION UNDER TITLE 15, CHAPTER 6, PART 2.

(2) CLASS FOURTEEN PROPERTY IS TAXED AT 11% OF ITS MARKET VALUE.

Section 7. Section 15-8-111, MCA, is amended to read:

"15-8-111. Assessment -- market value standard -- exceptions. (1) All taxable property must be assessed at 100% of its market value except as provided in subsection (5) of this section and in 15-7-111 through 15-7-114.

(2) (a) Market value is the value at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of relevant facts.

(b) The market value of all ~~motor trucks, agricultural tools, implements, and machinery, and vehicles of all kinds, including but not limited to motorcycles, aircraft, and boats and all watercraft,~~ property included in class seven MOTOR TRUCKS, AGRICULTURAL TOOLS, IMPLEMENTS, AND MACHINERY; AND VEHICLES OF ALL KINDS, INCLUDING BUT NOT LIMITED TO MOTORCYCLES, AIRCRAFT, AND BOATS AND ALL WATERCRAFT, is the average wholesale value shown in national appraisal guides and manuals or the value of the vehicle before

reconditioning and profit margin. The department of revenue shall prepare valuation schedules showing the average wholesale value when no national appraisal guide exists.

~~(c) The market value of all commercial property other than real property and improvements is the average retail value shown in one or more national appraisal guides and manuals chosen by the department of revenue. The department shall prepare valuation schedules showing the average retail value when no national appraisal guide exists.~~

~~(d) For real property and improvements, in the absence of contradictory market data information, market value is considered to be replacement cost depreciated.~~

(3) The department of revenue or its agents may not adopt a lower or different standard of value from market value in making the official assessment and appraisal of the value of property in 15-6-134 through ~~15-6-140~~ ~~15-6-137 and 15-6-139 through 15-6-141~~ 15-6-140, [SECTION 5], AND [SECTION 6]. For purposes of taxation, assessed value is the same as appraised value.

(4) The taxable value for all property in classes four ~~through seven and classes nine~~ through eleven, [SECTION 5], AND [SECTION 6] is the percentage of market value established for each class of property in 15-6-134 ~~through 15-6-137 and 15-6-139~~ through 15-6-141, [SECTION 5], AND [SECTION 6].

(5) The assessed value of properties in 15-6-131 through 15-6-133 is as follows:

(a) Properties in 15-6-131, under class one, are assessed at 100% of the annual net proceeds after deducting the expenses specified and allowed by 15-23-503.

(b) Properties in 15-6-132 under class two are assessed at 100% of the annual gross proceeds.

(c) Properties in 15-6-133 under class three are assessed at 100% of the productive capacity of the lands when valued for agricultural purposes. All lands that meet the qualifications of 15-7-202 are valued as agricultural lands for tax purposes.

~~(d)--Properties-in-15-6-138,--under--class--eight,--are assessed--at--100%--of--the--combined-appraised-value-of-the standing-timber-and-grazing-productivity.~~

(6) Land and the improvements thereon are separately assessed when any of the following conditions occur:

(a) ownership of the improvements is different from ownership of the land;

(b) the taxpayer makes a written request; or

(c) the land is outside an incorporated city or town.

(7) The taxable value of all property in 15-6-131 and classes two, and AND three~~,--and--eight~~ is the percentage of assessed value established in 15-6-131(2), 15-6-132, and AND 15-6-133~~,--and--15-6-138~~ for each class of property."

~~Section-14.--Section--15-16-611,--MCA,--is--amended--to read:~~

~~"15-16-611.--Reduction-of--property--tax--for--property destroyed--by--natural--disaster.---(1)--The--department--of revenue-shall,-upon-showing-by-a-taxpayer-that-some--or--all of--the--improvements--on--his-real-property-or-a-trailer-or mobile-home--(as--described--in--15-6-134(1)(c))--have--been destroyed-to-such-an-extent-that-such-improvements-have-been rendered--unsuitable--for--their--previous--use--by--natural disaster,-adjust-the-tax-due-and--payable--for--the--current year---on--the--property--under--15-16-102--as--provided--in subsection-(2)-of-this-section.~~

~~(2)--To-determine-the-amount-of-tax-due--for--destroyed property,--the-county-treasurer-shall-multiply-the-amount-of tax-levied-and-assessed-on-the-property-for-the-year-by--the ratio--that-the-number-of-days-in-the-year-that-the-property existed-before-destruction-bears-to-365.~~

~~(3)--This-section-does-not-apply--to--delinquent--taxes owed--on-the-destroyed-property-for-a-year-prior-to-the-year in-which-the-property-was-destroyed.~~

~~(4)--For--the--purposes--of--this---section,---"natural disaster"--includes--but--is--not--limited--to--fire,-flood, earthquake,-or-wind."~~

Section 8. Section 15-23-202, MCA, is amended to read:

"15-23-202. Assessment -- how made. (1) The department

must assess the franchise, roadway, roadbed, rails, rolling stock, and all other operating properties of all railroads operated in more than one county or more than one state. All rolling stock must be assessed in the name of the person owning, leasing, or using the same. Assessment must be made to the person owning or leasing or using the same and must be made upon the entire railroad within the state. The depots, stations, shops, and buildings erected upon the space covered by the right-of-way and all other property owned or leased by such person, except as above provided, shall be assessed by the department.

(2) In determining the taxable value of railroad property, the department ~~may--modify~~ shall determine the percentage ~~multiplier~~ rate "R" provided for in ~~15-6-141~~ ~~15-6-140~~ [SECTION 5] in order to achieve compliance with the requirements of the federal Railroad Revitalization and Regulatory Reform Act of 1976, as amended."

~~Section 16. Section 15-7-111, MCA, is amended to read:~~

~~"15-7-111. Periodic revaluation of taxable property. The (1) Except as provided in subsection (2), the department of revenue shall administer and supervise a program for the revaluation of all taxable property within the state at least every 5 years. A comprehensive written plan of rotation shall be promulgated by the department fixing the order of revaluation of property in each county on the basis~~

~~of the last revaluation of taxable property in each county prior to July 1, 1974, in order to adjust the disparities therein between the counties. The plan of rotation so adopted shall provide that all property in each county shall be revalued at least every 5 years or that no less than 20% of the property in each county shall be revalued in each year. The department shall furnish a copy of the plan and all amendments thereto to each county assessor and the board of county commissioners in each county.~~

~~(2) All property in class four, class nine, class ten, and class eleven shall be revalued annually under a program developed, administered, and supervised by the department.~~"

Section 9. Section 15-8-104, MCA, is amended to read:

"15-8-104. Department audit of taxable value -- costs of audit paid by department. (1) When in the judgment of the director of revenue it is necessary, audits may be made for the purpose of determining the taxable value of net proceeds of mines and oil and gas wells and all other types of property subject to ad valorem taxation.

(2) The department of revenue shall conduct audits of the assessment of ALL COMMERCIAL PERSONAL property ~~in class four and class nine~~ to assure that the value of the property in those classes reflects market value. BECAUSE THE ASSESSED VALUE OF COMMERCIAL PERSONAL PROPERTY IS DEFINED AS MARKET VALUE UNDER 15-8-111(2), THE AUDITS CONDUCTED BY THE

DEPARTMENT SHALL BE PRIMARILY DIRECTED TOWARD ENSURING THAT ALL TAXABLE PERSONAL PROPERTY IS REPORTED TO THE DEPARTMENT.

~~(2)~~(3) The cost of ~~the~~ any audit performed under subsection (1) or (2) shall be paid by the department."

~~NEW-SECTION.--Section-18.--Repealer.--Section-15-6-142, MCA,-is-repealed.~~

NEW SECTION. Section 10. ~~Extension~~ RULEMAKING AUTHORITY -- EXTENSION of EXISTING authority. (1) THE DEPARTMENT OF REVENUE SHALL ADOPT RULES SPECIFYING WHICH TYPES OF PROPERTY WITHIN THE SEVERAL CLASSES ARE CONSIDERED "COMPARABLE PROPERTY" AS DESCRIBED IN 15-1-101.

(2) THE DEPARTMENT SHALL ALSO ADOPT RULES SPECIFYING THE METHODOLOGY TO BE USED IN CONDUCTING SALES ASSESSMENT RATIO STUDIES AND IN DETERMINING THE VALUE-WEIGHTED MEAN SALES ASSESSMENT RATIO FOR ALL COMMERCIAL AND INDUSTRIAL REAL PROPERTY AND IMPROVEMENTS.

(3) Any existing authority of the department of revenue to make rules on the subject of the provisions of this act is extended to the provisions of this act.

~~(2)~~(4) The department may initiate rulemaking proceedings under this section on or after the date on which this act is passed and approved, but no rule adopted under this section may be made effective before January 1, 1986.

NEW SECTION. Section 11. Severability. If a part of this act is invalid, all valid parts that are severable from

the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. Section 12. Effective dates. (1) This act, except section ~~19~~ 10 and this section, is effective January 1, 1986.

(2) Section ~~19~~ 10 and this section are effective on passage and approval.

-End-

MINUTES OF THE MEETING
TAXATION COMMITTEE
MONTANA STATE SENATE

April 25, 1985

The eighty-second meeting of the Senate Taxation Committee was called to order at 5:45 pm by Chairman Thomas E. Towe in Room 413-415 of the Capitol Building.

ROLL CALL: All members of the committee were present.

CONSIDERATION OF HB 240: Representative Jack Ramirez was recognized as chief sponsor of the bill. He said that this bill was an alternative to SB 48 and was a way of dealing with the 4R's Act problems in isolation. He said that he believed that the bill was technically, legally correct. He said that it defined commercial property in a way that could be sustained in court. He said that gross and net proceeds were not included in the bill as drafted and that it was unfair to include them. He said there were dozens of reasons for not amending the bill and that including gross and net proceeds would be a violation of federal law and result in an expensive law suit.

He said that in defining comparable property, commercial should be compared with commercial and residential with residential. He said the bill does require a sales assessment ratio study. He said the bill should not be changed in any way.

PROPONENTS

Mr. Dennis Burr, Montana Taxpayers Association, said that if a net and gross proceeds part is added to the formula it should be permissive and not mandatory. He said the bill is in compliance with the 4R's Act.

Mr. Greg Groepper, Property Tax Assessment Division, Department of Revenue, said that he disagreed about inclusion of gross and net proceeds and felt that they should be included in the bill. He asked the committee not to leave it as a permissive matter as that would leave a policy decision to an administrative body. He said that he supported HB 240.

OPPONENTS

Mr. Dennis McNair, Burlington Northern, said that he agreed with and supported the definition of comparable properties and the sales assessment ratio studies. He gave the committee a written copy of his testimony for the record (Exhibit 1).

Questions from the committee were called for.

Senator Mazurek asked if the Department of Revenue could not be put in charge of the tax rate. Mr. Burr said that it could be delegated to the Department. Mr. Groepper said that there is too much attention and controversy surrounding the issue. He said that the courts will look for clear legislative direction in the

handling of the matter. He said that anything the Department did would be suspect.

Representative Ramirez closed saying, "What you are about to do is unconscionable." He said that federal law already states that net and gross proceeds should not be in this formula. He said that at the eleventh hour the Legislature is doing legal extortion against one taxpayer whose taxes will double as a result. He said that Burlington Northern taxes would go from $9 million to $17 million or more. He said the sole reason this is being done is to leverage a law suit for the Department of Revenue and to allow them to settle for more than $9 million. He said, "I have never been so offended by an act of the Legislature." He said the state would spend $1 million defending a losing law suit. He said that if the railroads are not being adequately taxed then their assessment should be addressed. He said that Burlington Northern is an easy target, but that the amendments are terribly unfair.

Chairman Towe closed the hearing and presented the committee with the amendments in Exhibit 2. He said that amendment number 8 should be deleted from the exhibit. Amendment number 1 includes net and gross proceeds; amendments 2 and 3 include the deflater; the next two are tehnical and 6 defines commercial property.

Senator Goodover asked about amendment number 7 which strikes lines 17 through 19. Senator Towe said that language is not necessary as it defines something that is already included.

Senator Severson asked at what percent would the railroads be increased. Senator Towe said they would go from 9.25 percent to 15 percent. He said that they are already at 15 percent in the statute. He said that the 4R's Act says that railroads cannot be taxed higher than commercial and industrial properties and are weighted at 9.25 percent. He said the 15 percent comes down to account for inflation. He said that a formula and not a percentage is included in the bill.

MOTION: Senator Halligan moved that HB 240 be amended per amendments 1-7 in Exhibit 2 and that "OF THIS ACT" be removed from 1 and 6.

MOTION: Senator Goodover moved as a substitute motion that HB 240 be concurred in without amendment. Senators Goodover, Hager, McCallum and Severson voted yes. Senators Brown, Eck, Halligan, Hirsch, Lybeck, Mazurek, Neuman and Towe voted no. The motion failed.

Question was called on Senator Halligan's motion to amend. Senators Brown, Eck, Halligan, Hirsch, Lybeck, Mazurek, Neuman and Towe voted yes. Senators Goodover, Hager, McCallum and Severson voted no. The motion carried.

MOTION: Senator Halligan moved that HB 240 be concurred in as amended. Senator Brown abstained. Senators Eck, Halligan, Hirsch, Lybeck, Mazurek, Neuman and Towe voted yes. Senators Goodover, Hager, McCallum and Severson voted no. The motion carried.

Chairman Towe adjourned the meeting.

Thomas E. Towe
Chairman

ROLL CALL

SENATE TAXATION COMMITTEE

49th Legislative Session -- 1985

Date April 25, 1985 5:45

Location -- Room 413-415

Name	Present	Absent	Excused
Senator Brown	✓		
Senator Eck	✓		
Senator Goodover	✓		
Senator Hager	✓		
Senator Halligan	✓		
Senator Hirsch	✓		
Senator Lybeck	✓		
Senator Mazurek	✓		
Senator McCallum	~~B~~ 5:50		+
Senator Neuman	✓		
Senator Severson	✓		
Senator Towe	✓		

BURLINGTON NORTHERN

HB 240 -- Exhibit 1
April 25, 1985

April 25, 1985

To: Members of the Montana Legislature

From: Dennis McKnire, Regional Director of Property Taxes,
Burlington Northern Railroad

Today, on the 90th day of this Session, you may be considering HB 198, HB 240 and HB 410 -- three bills which affect Montana's property tax system. This system has been under study by the Revenue Oversight Committee of the Legislature for the past two years. Now, because of recent events in the Legislature, I want to discuss with you Burlington Northern's position on these matters.

Burlington Northern does not want to be in an adversarial relationship with the State of Montana. It does want to be treated fairly, be a good corporate citizen sharing in the future of Montana, and pay its fair share of taxes (see enclosed brochure listing taxes paid by county). BN has worked with the Revenue Oversight Committee for the past two years in a mutual effort to develop a property tax system which embodies these principles. BN is willing to pay its fair share of taxes, but at the same time must protect the rights Congress deemed necessary to provide for an efficient, profitable railroad system for the Nation. Those rights include a state tax system that does not discriminate against railroads as compared to other commercial and industrial property.

HB 240, as transmitted to the Senate, will raise BN's taxes approximately $1.3 million per year. Amendments being considered (especially inclusion of net and gross proceeds) will raise the railroad's taxes approximately an additional $7.7 million annually. While it may be politically attractive today to opt for such a system of tax increases, I would urge you to consider the long term effects. The additional taxes, especially those caused by the potential amendments, may require the railroad to challenge the proposed system in federal court. The railroad believes the potential success of such a challenge is great. If the railroad were to be successful, the impacts to the counties would be significant.

To understand the impacts, you should consider the results of the previous litigation by BN between 1979 and 1982 on the property tax system. Because it believed the system was unfair and discriminatory, BN was required to deposit with the federal court approximately 70% of its taxes pending the outcome of those suits. Because we don not know what legislation may now be enacted, it is impossible at this point to say whether a legal challenge will be brought or what impact there may be on your locality.

Inclusion of net and gross proceeds in the proposed legislation will virtually assure a legal challenge. The Revenue Oversight Committee's own expert recommended that Montana, in attempting to comply with federal law, should not include net and gross proceeds in its property tax system. No other state, in attempting to comply with federal law, has included net and gross proceeds in its property tax system.

While HB 240, as transmitted to the Senate, may not achieve full compliance with the 4R Act, it narrows the legal issues and reduces the potential exposure of local governments to a successful legal challenge by congressionally protected taxpayers. In contrast, any further amendments to HB 240 which involve net and gross proceeds expand the issues and increase the potential exposure of local governments.

It is imperative that the Legislature adopt a system that is fair and equitable and which complies with mandates of Congress. Burlington Northern urges that you reject any amendments to HB 240 or the other bills that would include the concept of taxes based on net or gross proceeds, or otherwise expand the issues for potential litigation between the taxpayer and the Department of Revenue.

Dennis McKnire

HB 240

be amended as follows:

1. Page 28 through page 29
Strike: subsection (3) in its entirety
Insert: "(3) R = A/B WHERE:
(A) A IS THE TOTAL STATEWIDE TAXABLE VALUE OF ALL COMMERCIAL PROPERTY AS COMMERCIAL PROPERTY IS DESCRIBED IN 15-1-101 (d), INCLUDING CLASS I AND CLASS 2 PROPERTY AND,
(B) B IS THE TOTAL STATEWIDE MARKET VALUE OF ALL COMMERCIAL PROPERTY AS COMMERCIAL PROPERTY IS DESCRIBED IN 15-1-101 (d) ~~OF THIS ACT~~, INCLUDING CLASS I AND CLASS 2 PROPERTY,"

2. Page 30, line 9.
After: "Property"
Insert: "AND REDUCE THE TAXABLE VALUE OF PROPERTY DESCRIBED IN SUBSECTION (4) ONLY, BY MULTIPLYING THE TOTAL STATEWIDE TAXABLE VALUE OF PROPERTY DESCRIBED IN SUBSECTION (4) BY "M" PRIOR TO CALCULATING "A" IN SUBSECTION (3)"

3. Page 30, line 10.
Following: line 9
Insert: "(C) THE ADJUSTMENT REFERRED TO IN (4) (B) WILL BE MADE BEGINNING JANUARY 1, 1986 AND IN EACH SUSEQUENT TAX YEAR TO EQUALIZE THE RAILROAD AND AIRLINE TAXABLE VALUES."

4. Page 30, line 13.
After: "Act]"
Strike: ":"
Insert: "AND,"

5. Page 30, line 14.
Strike: "(A)"
After: "IS THE"
Insert: "EQUALIZED"

HB 240 -- Exhibit 2
April 25, 1985

6. Page 30, line 16.
Strike: "IN MONTANA; AND"
Insert: "AS COMMERCIAL PROPERTY IS DEFINED IN 15-1-101 (d) ~~OF THIS ACT.~~"

7. Page 30, Line 17.
Strike: Lines 17 through 19 in their entirety

8. Page 37, line 24.
After: "Severability."
Insert: "(1) SHOULD 15-6-134 (3) BE INVALIDATED BY COURT DECISIONS ARISING FROM PROPERTY TAX APPEALS FILED IN 1986 OR SUBSEQUENT YEARS, THE PROPERTY TAX CLASSES DESCRIBED IN SECTION 12 AND SECTION 13 SHALL REPLACE CLASS FOUR PROPERTY AS CONTAINED IN THIS ACT."

ROLL CALL VOTE

SENATE TAXATION COMMITTEE
49 th Legislative Session -- 1985

Time _____ Date April 25, 1985 Room 413-415

Motion: that HB240 be concurred in
~~Halligan~~ Goodover

Name	Yes	No	Excused
Senator Brown		✓	
Senator Eck		✓	
Senator Goodover	✓		
Senator Hager	✓		
Senator Halligan		✓	
Senator Hirsch		✓	
Senator Lybeck		✓	
Senator Mazurek		✓	
Senator McCallum	✓		
Senator Neuman		✓	
Senator Severson	✓		
Senator Towe		✓	

ROLL CALL VOTE

SENATE TAXATION COMMITTEE
49 th Legislative Session -- 1985

Time _____ Date April 25, 1985 Room 413-415

Motion: amend HB 240 per Exhibit 2
Halligan

Name	Yes	No	Excused
Senator Brown	✓		
Senator Eck	✓		
Senator Goodover		✓	
Senator Hager		✓	
Senator Halligan	✓		
Senator Hirsch	✓		
Senator Lybeck	✓		
Senator Mazurek	✓		
Senator McCallum		✓	
Senator Neuman	✓		
Senator Severson		✓	
Senator Towe	✓		

ROLL CALL VOTE

SENATE TAXATION COMMITTEE
49 th Legislative Session -- 1985

Time _____ Date April 25, 1985 Room 413-415

Motion: That HB 240 be as amended. ~~Goodover~~ Halligan

Name	Yes	No	~~Excused~~ abstain
Senator Brown			✓
Senator Eck	✓		
Senator Goodover		✓	
Senator Hager		✓	
Senator Halligan	✓		
Senator Hirsch	✓		
Senator Lybeck	✓		
Senator Mazurek	✓		
Senator McCallum		✓	
Senator Neuman	✓		
Senator Severson		✓	
Senator Towe	✓		

SENATE

STANDING COMMITTEE REPORT

April 25, 1985

MR. PRESIDENT

We, your committee on Taxation

having had under consideration House Bill No. 240

third reading copy (blue color)

(Senator Towe)

Respectfully report as follows: That House Bill No. 240

be amended as follows:

1. Page 28, line 3 through line 19, page 29.
Strike: subsection (3) in its entirety
Insert: "(3) R = A/B where:
(a) A is the total statewide taxable value of all commercial property as commercial property is described in 15-1-101 (d), including class 1 and class 2 property and,
(b) B is the total statewide market value of all commercial property as commercial property is described in 15-1-101 (d),including class 1 and class 2 property."

2. Page 30, line 9.
Following: "PROPERTY"
Insert: "and reduce the taxable value of property described in subsection (4) only, by multiplying the total statewide taxable value of property described in subsection (4) by "M" prior to calculating "A" in subsection (3)"

3. Page 30.
Following: line 9
Insert: "(c) the adjustment referred to in (4) (b) will be made beginning January 1, 1986 and in each subsequent tax year to equalize the railroad and airline taxable values."

BG:RAS6

DOC\BG\RAS6

continued

TET

Chairman.

4. Page 30, line 13.
Following: "ACT]"
Strike: ":"
Insert: "and,"

5. Page 30, line 14.
Strike: "(A)"
Following: "IS THE"
Insert: "equalized"

6. Page 30, line 16.
Strike: "IN MONTANA; AND"
Insert: "as commercial property is defined in 15-1-101 (d)."

7. Page 30, lines 17 through 19.
Strike: Lines 17 through 19 in their entirety

AND AS AMENDED
BE CONCURRED IN

KB

Senator Thomas E. Towe, Chairman

STATEMENT OF INTENT

HOUSE BILL 240

A statement of intent is required for this bill because section 10 of the bill requires the department of revenue to adopt rules describing which types of property within the several property classes are comparable property. The legislature intends that the term "comparable property" will be limited to comparisons of residential property with residential property, commercial property with commercial property, and so forth.

It is also the intent of the legislature that the department adopt rules establishing a method for conducting sales assessment ratio studies as required in the bill. The method provided in the rules should be statistically valid and conducted in a consistent, predictable manner, and only to the extent that the minimum requirements of federal legislation are met. The requirements to be met by the department, both under the provisions of this bill and under federal legislation, shall be met by using realty transfer certificates and other available data to the greatest extent possible.

Montana Legislative Council

REFERENCE BILL
HB 240

HOUSE BILL NO. 240

INTRODUCED BY RAMIREZ, CRIPPEN, B. BROWN

BY REQUEST OF THE REVENUE OVERSIGHT COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT TO ~~GENERALLY~~ REVISE MONTANA PROPERTY TAX CLASSIFICATION LAW TO COMPLY WITH FEDERAL LAW GRANTING CERTAIN TYPES OF PROPERTY SPECIAL CONSIDERATION AND WITH PROVISIONS OF THE MONTANA CONSTITUTION; ~~REQUIRING THE DEPARTMENT OF REVENUE TO ANNUALLY REVALUE ALL COMMERCIAL AND INDUSTRIAL PROPERTY;~~ REQUIRING THE DEPARTMENT OF REVENUE TO CONDUCT AUDITS OF ASSESSMENTS ON ~~CLASS FOUR AND CLASS NINE~~ COMMERCIAL PERSONAL PROPERTY ~~AND IMPROVEMENTS~~; REQUIRING THE DEPARTMENT OF REVENUE TO ANNUALLY DETERMINE THE TAXABLE PERCENTAGE RATE APPLICABLE TO CLASS ~~FOUR REAL PROPERTY AND IMPROVEMENTS TO RESULT IN A USER PERCENTAGE INCREASE IN THE STATEWIDE TAXABLE VALUE OF SUCH~~ THIRTEEN PROPERTY; DEFINING THE TERM "COMMERCIAL" AS IT APPLIES TO PROPERTY SUBJECT TO TAXATION; ~~CLARIFYING THE TERM "MARKET VALUE" FOR PROPERTY TAX PURPOSES;~~ AMENDING SECTIONS 15-1-101, ~~15-6-101,~~ 15-6-134, ~~15-6-135, 15-6-137 THROUGH~~ 15-6-138, 15-6-141, ~~15-6-151, 15-7-111, 15-7-202, 15-7-307,~~ 15-8-104, 15-8-111, ~~15-16-611,~~ AND 15-23-202, MCA; ~~REPEALING SECTION 15-6-142, MCA;~~ AND PROVIDING EFFECTIVE DATES."

HB 0240/03

WHEREAS, the federal government has granted special consideration to certain types of property with respect to property taxation; and

WHEREAS, the Legislature and the people of the State of Montana desire to be in full compliance with all federal law; and

WHEREAS, there have been questions in the past regarding the validity of Montana's property tax classification laws with respect to federal law granting special consideration to certain types of property; and

WHEREAS, state tax policy is best determined by the state's primary policymaking body, which is the Legislature; and

WHEREAS, the Legislature wishes to retain as much as possible the sovereignty guaranteed to the state by the 10th amendment to the Constitution of the United States; and

WHEREAS, the 48th Legislature of the State of Montana adopted House Joint Resolution 31, requiring a study of Montana's property tax classification system; and

WHEREAS, the Revenue Oversight Committee has examined Montana's property tax system; and

WHEREAS, that examination causes the Revenue Oversight Committee to recommend a ~~general~~ revision of Montana's property tax classification system.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 15-1-101, MCA, is amended to read:

"15-1-101. Definitions. (1) When terms mentioned in this section are used in connection with taxation, they are defined in the following manner:

(a) The term "agricultural" refers to the raising of livestock, swine, poultry, field crops, fruit, and other animal and vegetable matter for food or fiber.

(b) The term "assessed value" means the value of property as defined in 15-8-111.

(c) The term "average wholesale value" means the value to a dealer prior to reconditioning and profit margin shown in national appraisal guides and manuals or the valuation schedules of the department of revenue.

(d) (I) The term "commercial", when used to describe property, means any property used or owned by a business, a trade, or a nonprofit corporation as defined in 35-2-102 or used for the production of income, EXCEPT THAT PROPERTY DESCRIBED IN SUBSECTION (II).

(II) THE FOLLOWING TYPES OF PROPERTY ARE NOT COMMERCIAL:

(A) AGRICULTURAL LANDS;

(B) TIMBERLANDS;

(C) SINGLE-FAMILY RESIDENCES AND ANCILLARY IMPROVEMENTS AND IMPROVEMENTS NECESSARY TO THE FUNCTION OF A

BONA FIDE FARM, RANCH, OR STOCK OPERATION;

(D) MOBILE HOMES USED EXCLUSIVELY AS A RESIDENCE EXCEPT WHEN HELD BY A DISTRIBUTOR OR DEALER OF TRAILERS OR MOBILE HOMES AS HIS STOCK IN TRADE;

(E) ALL PROPERTY DESCRIBED IN 15-6-135;

(F) ALL PROPERTY DESCRIBED IN 15-6-136; AND

(G) ALL PROPERTY DESCRIBED IN [SECTION 6].

(E) THE TERM "COMPARABLE PROPERTY" MEANS PROPERTY THAT HAS SIMILAR USE, FUNCTION, AND UTILITY; THAT IS INFLUENCED BY THE SAME SET OF ECONOMIC TRENDS AND PHYSICAL, GOVERNMENTAL, AND SOCIAL FACTORS; AND THAT HAS THE POTENTIAL OF A SIMILAR HIGHEST AND BEST USE.

~~(d)~~(e)(F) The term "credit" means solvent debts, secured or unsecured, owing to a person.

~~(e)~~(f)(G) The term "improvements" includes all buildings, structures, ~~fixtures,~~ fences, and improvements situated upon, erected upon, or affixed to land. When the department of revenue or its agent determines that the permanency of location of a mobile home or housetrailer has been established, the mobile home or housetrailer is presumed to be an improvement to real property. A mobile home or housetrailer may be determined to be permanently located only when it is attached to a foundation which cannot feasibly be relocated and only when the wheels are removed.

~~(f)~~(g)(H) The term "leasehold improvements" means improvements to mobile homes and mobile homes located on land owned by another person. This property is assessed under the appropriate classification and the taxes are due and payable in two payments as provided in 15-24-202. Delinquent taxes on such leasehold improvements are a lien only on such leasehold improvements.

~~(g)~~(h)(I) The term "mobile home" means forms of housing known as "trailers", "housetrailers", or "trailer coaches" exceeding 8 feet in width or 45 feet in length, designed to be moved from one place to another by an independent power connected to them, or any "trailer", "housetrailer", or "trailer coach" up to 8 feet in width or 45 feet in length used as a principal residence.

~~(h)~~(i)(J) The term "personal property" includes everything that is the subject of ownership but that is not included within the meaning of the terms "real estate" and "improvements".

~~(i)~~(j)(K) The term "poultry" includes all chickens, turkeys, geese, ducks, and other birds raised in domestication to produce food or feathers.

~~(j)~~(k)(L) The term "property" includes moneys, credits, bonds, stocks, franchises, and all other matters and things, real, personal, and mixed, capable of private ownership. This definition must not be construed to

authorize the taxation of the stocks of any company or corporation when the property of such company or corporation represented by the stocks is within the state and has been taxed.

~~(k)~~(l)(M) The term "real estate" includes:

(i) the possession of, claim to, ownership of, or right to the possession of land;

(ii) all mines, minerals, and quarries in and under the land subject to the provisions of 15-23-501 and 15-23-801; all timber belonging to individuals or corporations growing or being on the lands of the United States; and all rights and privileges appertaining thereto.

~~(l)~~(m)(N) The term "taxable value" means the percentage of market or assessed value as provided for in 15-6-131 through 15-6-140.

(2) The phrase "municipal corporation" or "municipality" or "taxing unit" shall be deemed to include a county, city, incorporated town, township, school district, irrigation district, drainage district, or any person, persons, or organized body authorized by law to establish tax levies for the purpose of raising public revenue.

(3) The term "state board" or "board" when used without other qualification shall mean the state tax appeal board."

~~Section 2. Section 15-6-101, MCA, is amended to read:~~

"15-6-101.--Property Purpose------property subject-to taxation----classification. (1)-It-is-the--purpose--of--this chapter---to--comply--with--federal--law--requiring--special consideration-of-certain-types--of--property.--To--meet--the requirements--of--federal--law,--the--legislature--finds--it necessary-to-separate-the-several--types--of--property--into classes,--each--class-containing-property-reasonably-related to-other-property-in-the-same-class-and-reasonably-different from-property-in--every--other--class.--It--is--further--the purpose-of-this-chapter-and-the-policy-of-the-legislature-to treat--all--similar--property--subject--to--taxation--in--an equitable-manner.--

(1)(2)--All--property--in--this--state--is--subject--to taxation,-except-as-provided-otherwise.

(2)(3)--For---the--purpose--of--taxation,--the--taxable property-in-the-state-shall-be-classified-in-accordance-with 15-6-131-through-15-6-141 this-part."

Section 2. Section 15-6-134, MCA, is amended to read:

"15-6-134. Class four property -- description -- taxable percentage. (1) Class four property includes:

(a) all land,-including,-for-farm--homes,--1--acre--of agricultural--land-at-market-value, except that specifically included in another class;

(b) all improvements except those specifically included in another class;

(c)--a--trailer--or--mobile--home--used--as-a-residence except-when:

(i)--held-by-a-distributor-or--dealer--of--trailers--or mobile-homes-as-his-stock-in-trade;-or

(ii)-specifically-included-in-another-class;

(c)(d)(C) the first $35,000 or less of the market value of any improvement on real property and appurtenant land not exceeding 5 acres owned or under contract for deed and actually occupied for at least 10 months a year as the primary residential dwelling of:

(i) a widow or widower 62 years of age or older who qualifies under the income limitations of (iii) of this subsection;

(ii) a widow or widower of any age with dependent children who qualifies under the income limitations of (iii) of this subsection; or

(iii) a recipient or recipients of retirement or disability benefits whose total income from all sources including otherwise tax-exempt income of all types is not more than $8,000 for a single person or $10,000 for a married couple;

(e)--the-first-$35,000-or-less-of-the-market-value-of-a trailer-or-mobile-home-used--as--a--residence--and--actually occupied--for--at--least--10--months--a--year-as-the-primary dwelling-of-any-person-described--in--subsections--(1)(d)(i)

~~through (1)(d)(iii);~~

~~(d)~~ (f)(D) all golf courses, including land and improvements actually and necessarily used for that purpose, that:

(i) consist of at least 9 holes and not less than 3,000 lineal yards; and

(ii) were used as a golf course on January 1, 1979, and were owned by a nonprofit Montana corporation.

(2) Class four property is taxed as follows:

(a) ~~Except as provided in 15-24-1402 or 15-24-1501,~~ property Property EXCEPT AS PROVIDED IN 15-24-1402 OR 15-24-1501, PROPERTY described in subsections (1)(a) ~~and (1)(b) through (1)(c)~~ AND (1)(B) is taxed at ~~8.55%~~ the taxable percentage rate "P" 8.55% of its market value.

(b) Property described in ~~subsection (1)(c) subsections (1)(d) and (1)(e)~~ SUBSECTION (1)(C) is taxed at ~~8.55%~~ the taxable percentage rate "P" 8.55% of its market value multiplied by a percentage figure based on income and determined from the following table:

Income Single Person	Income Married Couple	Percentage Multiplier
$0 - $1,000	$0 - $1,000	0%
1,001 - 2,000	1,001 - 2,000	10%
2,001 - 2,800	2,001 - 3,000	20%
2,801 - 3,600	3,001 - 4,000	30%

3,601 - 4,400	4,001 - 5,000	40%
4,401 - 5,200	5,001 - 6,000	50%
5,201 - 6,000	6,001 - 7,000	60%
6,001 - 6,800	7,001 - 8,000	70%
6,801 - 7,600	8,001 - 9,000	80%
7,601 - 8,000	9,001 - 10,000	90%

(c) Property described in subsection ~~(1)(d)~~ (1)(f)(1)(D) is taxed at one-half the taxable percentage ~~established in subsection (2)(a), or 4.275%~~ rate "P" ESTABLISHED IN SUBSECTION (2)(A).

~~(3) Until July 1, 1986, the taxable percentage rate "P" for class four property is 8.55%.~~

~~(4) For 1986 and every year thereafter, the department of revenue shall, before July 1 of each year, determine the taxable percentage rate "P" applicable to class four property. The determination shall be made as provided in subsection (5).~~

~~(5) P = A/(1 + B), where:~~

~~(a) P is the taxable percentage rate applicable to class four property for the fiscal year beginning July 1 in the year in which P is calculated;~~

~~(b) A is the taxable percentage rate P applicable to class four property as established by the department for the immediately preceding year; and~~

~~(c) B is the certified statewide percentage increase~~

to be determined by the department as provided in subsection (6).

(6) The director of the department of revenue shall certify to the governor before July 1 of each year the percentage by which the appraised value of all property in the state classified under class four as of January 1 of the same year has increased due to the revaluation conducted under 15-7-111(2). This figure is the "certified statewide percentage increase".

(3) WITHIN THE MEANING OF COMPARABLE PROPERTY AS DEFINED IN 15-1-101, PROPERTY ASSESSED AS COMMERCIAL PROPERTY IS COMPARABLE ONLY TO OTHER PROPERTY ASSESSED AS COMMERCIAL PROPERTY, AND PROPERTY ASSESSED AS OTHER THAN COMMERCIAL PROPERTY IS COMPARABLE ONLY TO OTHER PROPERTY ASSESSED AS OTHER THAN COMMERCIAL PROPERTY."

Section 4. Section 15-6-135, MCA, is amended to read:

"15-6-135. Class five property description taxable percentage. (1) Class five property includes:

(a) all property used and owned by cooperative rural electrical and cooperative rural telephone associations organized under the laws of Montana, except property described in 15-6-139(1)(u) owned by cooperative organizations described in subsection (1)(c) of 15-6-137;

(b) air and water pollution control equipment as defined in this section;

(c) new industrial property as defined in this section;

(d) any personal or real property used primarily in the production of gasohol during construction and for the first 3 years of its operation.

(2) (a) "Air and water pollution equipment" means facilities, machinery, or equipment used to reduce or control water or atmospheric pollution or contamination by removing, reducing, altering, disposing, or storing pollutants, contaminants, wastes, or heat. The department of health and environmental sciences shall determine if such utilization is being made.

(b) The department of health and environmental sciences' determination as to air and water pollution equipment may be appealed to the board of health and environmental sciences and may not be appealed to either a county tax appeal board or the state tax appeal board. However, the appraised value of the equipment as determined by the department of revenue may be appealed to the county tax appeal board and the state tax appeal board.

(3) "New industrial property" means any new industrial plant, including land, buildings, machinery, and fixtures, used by new industries during the first 3 years of their operation. The property may not have been assessed within the state of Montana prior to July 1, 1961.

~~(4)--(a)-"New--industry"-means-any-person,-corporation,-firm,--partnership,--association,--or---other---group---that establishes--a--new--plant-in-Montana-for-the-operation-of-a new--industrial--endeavor,--as--distinguished--from--a--mere expansion,---reorganization,---or---merger--of--an--existing industry.~~

~~(b)--New-industry-includes-only-those-industries--that:~~

~~(i)--manufacture,--mill,--mine,--produce,--process,--or fabricate-materials;~~

~~(ii)-do-similar-work,-employing-capital-and--labor,--in which--materials--unserviceable--in--their-natural-state-are extracted,--processed,--or--made--fit---for---use---or---are substantially--altered-or-treated-so-as-to-create-commercial products-or-materials;-or~~

~~(iii)-engage---in---the----mechanical----or----chemical transformation--of-materials-or-substances-into-new-products in-the-manner-defined-as-manufacturing-in-the-1972--Standard Industrial--Classification--Manual--prepared--by--the-United States-office-of-management-and-budget.~~

~~(5)--New-industrial-property-does-not-include:~~

~~(a)--property-used-by-retail--or--wholesale--merchants, commercial--services--of--any--type,-agriculture,-trades,-or professions;~~

~~(b)--a--plant--that--will--create--adverse--impact---on existing-state,-county,-or-municipal-services;-or~~

~~(c)--property--used-or-employed-in-any-industrial-plant that-has-been-in-operation-in-this--state--for--3--years--or longer.~~

~~(6)--Class--five--property-is-taxed-at-3%-of-its-market value."~~

~~Section-5.--Section-15-6-137,-MCA,-is-amended-to--read:~~

~~"15-6-137.--Class--seven--property------description---- taxable-percentage.--(1)-Class-seven-property-includes:~~

~~(a)--all-property-used-and--owned--by--persons,--firms, corporations,-or-other-organizations-that-are-engaged-in-the business--of-furnishing-telephone-communications-exclusively to-rural-areas-or-to-rural-areas-and-cities-and-towns-of-800 persons-or-less;~~

~~(b)--all-property-owned-by-cooperative-rural-electrical and-cooperative-rural-telephone-associations-that-serve-less than-95%-of-the-electricity--consumers--or--telephone--users within-the-incorporated-limits-of-a-city-or-town;~~

~~(c)--electric--transformers--and-meters,-electric-light and-power-substation-machinery,-natural--gas--measuring--and regulating-station-equipment,-meters,-and-compressor-station machinery--owned--by-noncentrally-assessed-public-utilities; and-tools--used--in--the--repair--and--maintenance--of--this property,-and~~

~~(d)--tools,--implements,--and--machinery-used-to-repair and-maintain-machinery-not-used-for-manufacturing-and-mining~~

purposes.

~~(2) To qualify for this classification, the average circuit miles for each station on the telephone communication system described in subsection (1)(b) must be more than 1 mile.~~ used for noncommercial purposes which is not real property or an improvement to real property and which is not in another class or exempt from taxation under Title 15, chapter 6, part 2, and

~~(b) all agricultural tools, machinery, and equipment used in a bona fide farm, ranch, or stock operation.~~

~~(3)~~(2) Class seven property is taxed at 8% ~~11.1%~~ of its market value."

Section 3. Section 15-6-138, MCA, is amended to read:

"15-6-138. Class eight property -- description -- taxable percentage. (1) Class eight property includes:

~~(a) all agricultural implements and equipment, commercial timberland;~~

~~(b) all mining machinery, fixtures, equipment, tools, and supplies except:~~

~~(i) those included in class five; and~~

~~(ii) coal and ore haulers;~~

~~(c) all manufacturing machinery, fixtures, equipment, tools, and supplies except those included in class five;~~

~~(d) motorcycles;~~

~~(e) watercraft;~~

~~(f) all trailers up to and including 18,000 pounds maximum gross loaded weight, except those subject to a fee in lieu of property tax;~~

~~(g) aircraft;~~

~~(h) all terrain vehicles;~~

~~(i) harness, saddlery, and other tack equipment;~~

~~(j) all goods and equipment intended for rent or lease, except goods and equipment specifically included and taxed in another class; and~~

~~(k) all other machinery except that specifically included in another class.~~

(A) ALL AGRICULTURAL IMPLEMENTS AND EQUIPMENT;

(B) ALL MINING MACHINERY, FIXTURES, EQUIPMENT, TOOLS, AND SUPPLIES EXCEPT:

(I) THOSE INCLUDED IN CLASS FIVE; AND

(II) COAL AND ORE HAULERS;

(C) ALL MANUFACTURING MACHINERY, FIXTURES, EQUIPMENT, TOOLS, AND SUPPLIES EXCEPT THOSE INCLUDED IN CLASS FIVE;

(D) ALL TRAILERS UP TO AND INCLUDING 18,000 POUNDS MAXIMUM GROSS LOADED WEIGHT, EXCEPT THOSE SUBJECT TO A FEE IN LIEU OF PROPERTY TAX;

(E) AIRCRAFT;

(F) ALL GOODS AND EQUIPMENT INTENDED FOR RENT OR LEASE, EXCEPT GOODS AND EQUIPMENT SPECIFICALLY INCLUDED AND TAXED IN ANOTHER CLASS; AND

(G) ALL OTHER MACHINERY EXCEPT THAT SPECIFICALLY INCLUDED IN ANOTHER CLASS.

~~(2)--Commercial-timberland-is-all-land-in-one-ownership and-from-which-is-harvested-30,000-or-more-board-feet-in-any year-during-the-appraisal-cycle;~~

~~(2)~~(3)(2) Class eight property is taxed at ~~11%~~ 30% 11% of ~~its--market--value~~ the--combined-appraised-value-of-the standing-timber-and-grazing-productivity-of-the-property ITS MARKET VALUE."

~~Section-7:--Section-15-6-139,-MCA,-is-amended-to--read:~~

~~"15-6-139.--Class---nine--property------description---- taxable-percentage.--(1)-Class-nine-property~~ is-all-property used-for-commercial-purposes-that-is-not-real-property-or-an improvement-to-real-property-and-which-is--not--included--in another--class--or--exempt--from--taxation--under--Title-15, chapter-6,-part-2,-and includes:

~~(a)--buses-and-trucks-having-a-rated-capacity--of--more than-three-quarters-of-a-ton-but-less-than-or-equal-to-1-1/2 tons;~~

~~(b)--truck-toppers-weighing-more-than-300-pounds;~~

~~(c)--furniture,--fixtures,--and--equipment,-except-that specifically-included-in-another-class,-used--in--commercial establishments-as-defined-in-this-section;~~

~~(d)--x-ray-and-medical-and-dental-equipment;-and~~

~~(e)--citizens'-band-radios-and-mobile-telephones;~~

~~(f)--all--mining-machinery,-fixtures,-equipment,-tools, and-supplies-except-those-included-in-class-five;~~

~~(g)--all-manufacturing-machinery,-fixtures,--equipment, tools,-and-supplies-except-those-included-in-class-five;~~

~~(h)--motorcycles;~~

~~(i)--watercraft;~~

~~(j)--all--trailers--up--to--and-including-18,000-pounds maximum-gross-loaded-weight,-except-those-subject-to--a--fee in-lieu-of-property-tax;~~

~~(k)--aircraft;~~

~~(l)--all-terrain-vehicles;~~

~~(m)--harness,-saddlery,-and-other-tack-equipment;~~

~~(n)--all--goods--and--equipment--intended--for--rent-or lease,-except-goods-and-equipment-specifically-included--and taxed-in-another-class;~~

~~(o)--all---other--machinery--except--that--specifically included-in-another-class;~~

~~(p)--radio-and-television-broadcasting-and-transmitting equipment;~~

~~(q)--cable-television-systems;~~

~~(r)--coal-and-ore-haulers;~~

~~(s)--all-trailers-exceeding-18,000-pounds-maximum-gross loaded-weight,-including-those-prorated-under-15-24-102--and except-those-subject-to-a-fee-in-lieu-of-property-tax;~~

~~(t)--theater-projectors-and-sound-equipment;~~

(u)--electric--transformers--and-meters;-electric-light and-power-substation-machinery;-natural--gas--measuring--and regulating-station-equipment;-meters;-and-compressor-station machinery--owned--by-noncentrally-assessed-public-utilities; and-tools--used--in--the--repair--and--maintenance--of--this property;

(v)--tools;--implements;--and--machinery-used-to-repair and-maintain-machinery-not-used-in-a-bona-fide--agricultural operation-or-for-manufacturing-or-mining-purposes;-and

(w)--all-other-property-not-included-in-any-other-class except--that-property-subject-to-a-fee-in-lieu-of-a-property tax-and-property-exempt-from-taxation.

(2)--"Commercial--establishment"--includes--any--hotel; motel;--office;--petroleum--marketing--station;--or-service, wholesale,-retail,-or-food-handling-business.

(3)--Class-nine-property-is-taxed-at-13% 11.7% of--its market-value."

Section-8.--Section--15-6-140,-MCA,-is-amended-to-read:

"15-6-140.--Class--ten--property-------description------ taxable-percentage.--(1)-Class-ten-property-includes:

(a)--radio-and-television-broadcasting -and-transmitting equipment;

(b)--cable-television-systems;

(c)--coal-and-ore-haulers;

(d)--trucks--having-a-rated-capacity-of-more-than-1-1/

tons,-including-those-prorated-under-15-24-102;

(e)--all-trailers-exceeding-18,000-pounds-maximum-gross loaded-weight,-including-those-prorated-under-15-24-102--and except-those-subject-to-a-fee-in-lieu-of-property-tax;

(f)--theater-projectors-and-sound-equipment;-and

(g)--all--other--property-not-included-in-the-preceding nine-classes-except-that-property-subject-to-a-fee--in--lieu of-a-property-tax.

(a)--all--railroad-transportation-property-as-described in-the-Railroad-Revitalization-and-Regulatory-Reform-Act--of 1976-as-it-reads-on-{the-effective-date-of-this-act};

(b)--all--airline--transportation-property-as-described in-the-Tax-Equity-and-Fiscal-Responsibility-Act-of--1982--as it-reads-on-{the-effective-date-of-this-act};-and

(c)--all---motor--carrier--transportation--property--as described-in-the-Motor-Carrier-Act-of-1980-as--it--reads--on {the-effective-date-of-this-act}.

(2)--Class--ten--property-is-taxed-at-16%-of-its-market value. the-percentage-rate-"R",--to--be--determined--by--the department-as-provided-in-subsection-(3).

(3)--R-=-(A-+-B-+-C-+-D)/E,-where:

(a)--R--is--the--taxable-percentage-applicable-to-class ten-property;

(b)--A-is-the-total--statewide--taxable--value--of--all commercial--real-property-and-improvements-included-in-class

four-and-is-determined-by-multiplying--the--total--statewide market--value--of--such--class--four-property-by-the-taxable percentage-rate-"P"-provided-in-15-6-134;

(c)--B-is-the-total--statewide--taxable--value--of--all property--included--in--class--nine--and--is--determined--by multiplying-the-total-statewide-market-value-of--class--nine property-by-the-taxable-percentage-provided-in-15-6-139;

(d)--C--is--the--total--statewide--taxable-value-of-all property-described-in-15-6-141(1)(a);--(1)(b);--(1)(d);--and (1)(e)--and-is-determined-by-multiplying-the-total-statewide market-value-of-the-property-described-in-those--subsections by-the-taxable-percentage-provided-in-15-6-141(2)(a);

(e)--D--is--the--total--statewide--taxable-value-of-all property-described-in-15-6-141(1)(c)-and--is--determined--by multiplying-the-total-statewide-market-value-of-the-property described---in--15-6-141(1)(c)--by--the--taxable--percentage provided-in-15-6-141(2)(b);-and

(f)--E-is-the-total-statewide-market-value-of:

(i)--all-property-included--in--class--nine--and--class eleven;-and

(ii)-all--commercial--real--property--and--improvements included-in-class-four:

(4)--For-the-purpose-of--complying--with--the--Railroad Revitalization--and--Regulatory--Reform-Act-of-1976,-the-Tax Equity-and-Fiscal-Responsibility-Act-of-1982,-and-the--Motor

Carrier--Act-of-1980,-as-they-read-on-(the-effective-date-of this-act);

(a)--the-rate-"R"-referred-to-in-subsection-(2)-is--the average--tax--rate--generally--applicable--to-commercial-and industrial-property-in-Montana;-and

(b)--"commercial--and--industrial--property"---is---all property--included--in--class--nine-and-class-eleven-and-all commercial-real-property-and-improvements-included-in--class four."

Section 4. Section 15-6-141, MCA, is amended to read:

"15-6-141. Class eleven property -- description -- taxable percentage. (1) Class eleven property includes:

(a) centrally assessed electric power companies' allocations;

(b) allocations for centrally assessed natural gas companies having a major distribution system in this state; and

(c) centrally assessed companies' allocations except:

(i) electric power and natural gas companies' property;

(ii) property owned by cooperative rural electric and cooperative rural telephone associations and classified in class five; and

(iii) property owned by organizations providing telephone communications to rural areas and classified in

class ~~seven~~ nine SEVEN; and

(iv) ~~motor----carrier~~ airline and railroad transportation property included in class ~~ten~~ THIRTEEN.

~~(d)--all--property--used--and--owned-by-persons,-firms, corporations,-or-other-organizations-that-are-engaged-in-the business-of-furnishing-telephone-communications--exclusively to-rural-areas-or-to-rural-areas-and-cities-and-towns-of-800 persons-or-less;-and~~

~~(e)--all-property-owned-by-cooperative-rural-electrical and-cooperative-rural-telephone-associations-that-serve-less than--95%--of--the--electricity-consumers-or-telephone-users within-the-incorporated-limits-of-a-city-or-town--where--the average--circuit--miles--for--each--station-on-the-telephone communication-system-is-more-than-1-mile.~~

(2) Class eleven property is taxed as follows:

(a) Property described in ~~subsection~~ subsections (1)(a), and AND (1)(b)~~,-(1)(d),-and-(1)(e)~~ is taxed at ~~12%~~ ~~12.8%~~ 12% of market value.

(b) Except as provided in 15-23-202, property described in subsection (1)(c) is taxed at ~~15%~~ ~~12.8%~~ 15% of market value."

~~Section-10.--Section-15-6-151,-MCA,-is-amended-to-read:~~

~~"15-6-151.--Application---for---certain---class----four classifications.---(1)--A-person-applying-for-classification of-property-described-in-subsection-(1)(c) (1)(d)-or--(1)(e)~~

~~of--15-6-134--shall--make--an-affidavit-to-the-department-of revenue,-on-a-form-provided-by-the-department-without--cost, stating:~~

~~(a)--his-income;~~

~~(b)--his-retirement-benefits;~~

~~(c)--his-marital-status;~~

~~(d)--the---fact---that---he---maintains--the--land--and improvements-as--his--primary--residential--dwelling,--where applicable;-and~~

~~(e)--such--other--information--as--is--relevant--to-the applicant's-eligibility.~~

~~(2)--This-application-must-be-made-before--March--1--of the---year---after---the--applicant--becomes--eligible.--The application-remains-in-effect--in--subsequent--years--unless there--is--a--change--in--the--applicant's-eligibility.--The taxpayer-shall--inform--the--department--of--any--change--in eligibility.--The-department-may-inquire-by-mail-whether-any change-in-eligibility-has-taken-place-and-may-require-a--new statement-of-eligibility-at-any-time-it-considers-necessary.~~

~~(3)--The-affidavit-is-sufficient-if-the-applicant-signs a--statement--affirming--the--correctness-of-the-information supplied,-whether-or-not-the-statement-is--signed--before--a person---authorized--to--administer--oaths,--and--mails--the application-and-statement--to--the--department--of--revenue. This--signed-statement-shall-be-treated-as-a-statement-under~~

oath or equivalent affirmation for the purposes of 45-7-202, relating to the criminal offense of false swearing."

Section 11. Section 15-7-202, MCA, is amended to read:

"15-7-202. Eligibility of land for valuation as agricultural. (1) Land which is actively devoted to agricultural use shall be eligible for valuation, assessment, and taxation as herein provided each year it meets any of the following qualifications:

(a) the area of such land is not less than 5 contiguous acres when measured in accordance with provisions of 15-7-206, and it has been actively devoted to agriculture during the last growing season, and it continues to be actively devoted to agricultural use, which means:

(i) it is used to produce field crops including but not limited to grains, feed crops, fruits, vegetables; or

(ii) it is used for grazing and it is not classified as commercial timberland as defined in 15-6-138; or

(iii) it is used for growing timber; or

(iv)(iii) it is in a cropland retirement program; or

(b) it agriculturally produces for sale or home consumption the equivalent of 15% or more of the owners' annual gross income regardless of the number of contiguous acres in the ownership; or

(c) it is used to raise animals in confined areas for the production of food or fiber, including but not limited

to livestock, feedlots, dairies, fish hatcheries, and poultry farms.

(2) Land shall not be classified or valued as agricultural if it is subdivided with stated restrictions prohibiting its use for agricultural purposes.

(3) The grazing on land by a horse or other animals kept as a hobby and not as a part of a bona fide agricultural enterprise shall not be considered a bona fide agricultural operation."

Section 12. Section 15-7-307, MCA, is amended to read:

"15-7-307. Certificate exceptions. The certificate imposed by this part shall not apply to:

(1) an instrument recorded prior to July 1, 1975;

(2) the sale of agricultural land when the land is used for agricultural purposes;

(3) the United States of America, this state, or any instrumentality, agency, or subdivision thereof;

(4) an instrument which (without added consideration) confirms, corrects, modifies, or supplements a previously recorded instrument;

(5) a transfer pursuant to court decree;

(6) a transfer pursuant to mergers, consolidations, or reorganizations of corporations, partnerships, or other business entities;

(7) a transfer by a subsidiary corporation to its

parent--corporation--without-actual-consideration-or-in-sole consideration-of-the-cancellation-or-surrender-of-subsidiary stock;

(8)--a-transfer-of-decedents'-estates;

(9)--a-transfer-of-a-gift;

(10)-a-transfer-between-husband-and-wife-or-parent--and child-with-only-nominal-actual-consideration-therefor;

(11)-an--instrument--the-effect-of-which-is-to-transfer the-property-to-the-same-party-or-parties;

(12)-a--sale--for--delinquent--taxes--or---assessments; sheriff-sale;-bankruptcy-action;-or-mortgage-foreclosure;

(13)-a-transfer-made-in-contemplation-of-death;-or

(14)-the-sale-of-timberland-when-the-land-is-classified for-tax-purposes-as-commercial-timberland."

NEW SECTION. SECTION 5. CLASS THIRTEEN PROPERTY -- DESCRIPTION -- TAXABLE PERCENTAGE. (1) CLASS THIRTEEN PROPERTY INCLUDES:

(A) ALL RAILROAD TRANSPORTATION PROPERTY AS DESCRIBED IN THE RAILROAD REVITALIZATION AND REGULATORY REFORM ACT OF 1976 AS IT READ ON [THE EFFECTIVE DATE OF THIS ACT]; AND

(B) ALL AIRLINE TRANSPORTATION PROPERTY AS DESCRIBED IN THE TAX EQUITY AND FISCAL RESPONSIBILITY ACT OF 1982 AS IT READ ON [THE EFFECTIVE DATE OF THIS ACT].

(2) FOR THE TAXABLE YEAR BEGINNING JANUARY 1, 1988, AND FOR EACH TAXABLE YEAR THEREAFTER, CLASS THIRTEEN

PROPERTY IS TAXED AT THE PERCENTAGE RATE "R", TO BE DETERMINED BY THE DEPARTMENT AS PROVIDED IN SUBSECTION (3).

(3)--R--=--(A(M)--+-B-+-C-+-D-+-E-+-F-/-L)-WHERE;-AS-OF JANUARY-1--OF--EACH--TAXABLE--YEAR--FOR--WHICH--R--IS--BEING CALCULATED:

(A)--R--IS--THE--TAXABLE--PERCENTAGE-RATE-APPLICABLE-TO CLASS-THIRTEEN-PROPERTY;

(B)--A-IS-THE-TOTAL--STATEWIDE--TAXABLE--VALUE--OF--ALL COMMERCIAL-PROPERTY-INCLUDED-IN-CLASS-FOUR-AND-IS-DETERMINED BY--MULTIPLYING--THE--TOTAL--STATEWIDE--MARKET-VALUE-OF-SUCH PROPERTY--BY--THE--TAXABLE--PERCENTAGE--RATE---PROVIDED---IN 15-6-134;

(C)--B--IS--THE--TOTAL--STATEWIDE--TAXABLE-VALUE-OF-ALL COMMERCIAL--PROPERTY--INCLUDED--IN--CLASS---SEVEN---AND---IS DETERMINED--BY--MULTIPLYING-THE-TOTAL-STATEWIDE-MARKET-VALUE OF-CLASS-SEVEN-COMMERCIAL-PROPERTY-BY-THE-TAXABLE-PERCENTAGE RATE-PROVIDED-IN-15-6-137;

(D)--C-IS-THE-TOTAL--STATEWIDE--TAXABLE--VALUE--OF--ALL COMMERCIAL---PROPERTY---INCLUDED---IN--CLASS--EIGHT--AND--IS DETERMINED-BY-MULTIPLYING-THE-TOTAL-STATEWIDE--MARKET--VALUE OF-CLASS-EIGHT-COMMERCIAL-PROPERTY-BY-THE-TAXABLE-PERCENTAGE RATE-PROVIDED-IN-15-6-138;

(E)--D--IS--THE--TOTAL--STATEWIDE--TAXABLE-VALUE-OF-ALL COMMERCIAL-PROPERTY-INCLUDED-IN-CLASS-NINE-AND-IS-DETERMINED BY-MULTIPLYING-THE-TOTAL-STATEWIDE--MARKET--VALUE--OF--CLASS

~~NINE--COMMERCIAL--PROPERTY--BY--THE--TAXABLE-PERCENTAGE-RATE PROVIDED-IN-15-6-139;~~

~~(F)--E-IS-THE-TOTAL--STATEWIDE--TAXABLE--VALUE--OF--ALL COMMERCIAL--PROPERTY-INCLUDED-IN-CLASS-TEN-AND-IS-DETERMINED BY-MULTIPLYING-THE-TOTAL-STATEWIDE-MARKET-VALUE-OF-CLASS-TEN COMMERCIAL-PROPERTY-BY-THE-TAXABLE-PERCENTAGE-RATE--PROVIDED IN-15-6-140;~~

~~(G)--F--IS--THE--TOTAL--STATEWIDE--TAXABLE-VALUE-OF-ALL COMMERCIAL--PROPERTY--INCLUDED--IN--CLASS--ELEVEN---AND---IS DETERMINED--BY--MULTIPLYING-THE-TOTAL-STATEWIDE-MARKET-VALUE OF--CLASS--ELEVEN--COMMERCIAL--PROPERTY---BY---THE---TAXABLE PERCENTAGE-RATE-PROVIDED-IN-15-6-141;~~

~~(H)--L--IS--THE--TOTAL--STATEWIDE--MARKET--VALUE-OF-ALL COMMERCIAL-PROPERTY-INCLUDED-IN-CLASSES-FOUR,-SEVEN,--EIGHT, NINE,-TEN,-AND-ELEVEN;-AND~~

~~(I)--M--IS--THE--VALUE-WEIGHTED--MEAN--SALES-ASSESSMENT RATIO-FOR-ALL-COMMERCIAL-AND-INDUSTRIAL--REAL--PROPERTY--AND IMPROVEMENTS--DETERMINED--BY--THE--DEPARTMENT-AS-PROVIDED-IN SUBSECTION-(4);~~

(3) R = A/B WHERE:

(A) A IS THE TOTAL STATEWIDE TAXABLE VALUE OF ALL COMMERCIAL PROPERTY AS COMMERCIAL PROPERTY IS DESCRIBED IN 15-1-101(1)(D), INCLUDING CLASS 1 AND CLASS 2 PROPERTY; AND

(B) B IS THE TOTAL STATEWIDE MARKET VALUE OF ALL COMMERCIAL PROPERTY AS COMMERCIAL PROPERTY IS DESCRIBED IN

15-1-101(1)(D), INCLUDING CLASS 1 AND CLASS 2 PROPERTY.

(4) (A) FOR THE TAXABLE YEAR BEGINNING JANUARY 1, 1986, AND FOR EVERY TAXABLE YEAR THEREAFTER, THE DEPARTMENT SHALL CONDUCT A SALES ASSESSMENT RATIO STUDY OF ALL COMMERCIAL AND INDUSTRIAL REAL PROPERTY AND IMPROVEMENTS. THE STUDY MUST BE BASED ON:

(I) ASSESSMENTS OF SUCH PROPERTY AS OF JANUARY 1 OF THE YEAR FOR WHICH THE STUDY IS BEING CONDUCTED; AND

(II) A STATISTICALLY VALID SAMPLE OF SALES USING DATA FROM REALTY TRANSFER CERTIFICATES FILED DURING THE SAME TAXABLE YEAR OR FROM THE IMMEDIATELY PRECEDING TAXABLE YEAR, BUT ONLY IF A SUFFICIENT NUMBER OF CERTIFICATES IS UNAVAILABLE FROM THE CURRENT TAXABLE YEAR TO PROVIDE A STATISTICALLY VALID SAMPLE.

(B) THE DEPARTMENT SHALL DETERMINE THE VALUE-WEIGHTED MEAN SALES ASSESSMENT RATIO "M" FOR ALL SUCH PROPERTY AND REDUCE THE TAXABLE VALUE OF PROPERTY DESCRIBED IN SUBSECTION (4) ONLY, BY MULTIPLYING THE TOTAL STATEWIDE TAXABLE VALUE OF PROPERTY DESCRIBED IN SUBSECTION (4) BY "M" PRIOR TO CALCULATING "A" IN SUBSECTION (3).

(C) THE ADJUSTMENT REFERRED TO IN SUBSECTION (4)(B) WILL BE MADE BEGINNING JANUARY 1, 1986, AND IN EACH SUBSEQUENT TAX YEAR TO EQUALIZE THE RAILROAD AND AIRLINE TAXABLE VALUES.

(5) FOR THE PURPOSE OF COMPLYING WITH THE RAILROAD

REVITALIZATION AND REGULATORY REFORM ACT OF 1976 AND THE TAX EQUITY AND FISCAL RESPONSIBILITY ACT OF 1982, AS THEY READ ON [THE EFFECTIVE DATE OF THIS ACT]~~:~~,

~~(A)~~ THE RATE "R" REFERRED TO IN THIS SECTION IS THE EQUALIZED AVERAGE TAX RATE GENERALLY APPLICABLE TO COMMERCIAL AND INDUSTRIAL PROPERTY ~~IN--MONTANA;--AND~~ AS COMMERCIAL PROPERTY IS DEFINED IN 15-1-101(1)(D).

~~(B)--"COMMERCIAL--AND--INDUSTRIAL--PROPERTY"---IS---ALL COMMERCIAL--PROPERTY-INCLUDED-IN-CLASSES-FOUR,-SEVEN,-EIGHT, NINE,-TEN,-AND-ELEVEN.~~

NEW SECTION. SECTION 6. CLASS FOURTEEN PROPERTY -- DESCRIPTION -- TAXABLE PERCENTAGE. (1) CLASS FOURTEEN PROPERTY INCLUDES:

(A) MOTORCYCLES;

(B) WATERCRAFT;

(C) ALL-TERRAIN VEHICLES;

(D) HARNESS, SADDLERY, AND OTHER TACK EQUIPMENT;

(E) ALL OTHER PROPERTY USED FOR NONCOMMERCIAL PURPOSES WHICH IS NOT REAL PROPERTY OR AN IMPROVEMENT TO REAL PROPERTY AND WHICH IS NOT INCLUDED IN ANOTHER CLASS OR EXEMPT FROM TAXATION UNDER TITLE 15, CHAPTER , PART 2.

(2) CLASS FOURTEEN PROPERTY IS TAXED AT 11% OF ITS MARKET VALUE.

Section 7. Section 15-8-111, MCA, is amended to read:

"15-8-111. Assessment -- market value standard --

exceptions. (1) All taxable property must be assessed at 100% of its market value except as provided in subsection (5) of this section and in 15-7-111 through 15-7-114.

(2) (a) Market value is the value at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of relevant facts.

(b) The market value of all ~~motor-trucks,-agricultural tools,-implements,-and-machinery,-and-vehicles-of-all-kinds, including--but--not--limited--to--motorcycles,-aircraft,-and boats-and-all-watercraft,~~ property-included-in--class--seven MOTOR TRUCKS, AGRICULTURAL TOOLS, IMPLEMENTS, AND MACHINERY; AND VEHICLES OF ALL KINDS, INCLUDING BUT NOT LIMITED TO MOTORCYCLES, AIRCRAFT, AND BOATS AND ALL WATERCRAFT, is the average wholesale value shown in national appraisal guides and manuals or the value of the vehicle before reconditioning and profit margin. The department of revenue shall prepare valuation schedules showing the average wholesale value when no national appraisal guide exists.

~~(c)--The--market-value-of-all-commercial-property-other than-real-property-and-improvements-is--the--average--retail value--shown--in--one--or-more-national-appraisal-guides-and manuals-chosen-by-the-department-of-revenue.--The-department shall-prepare-valuation-schedules-showing-the-average-retail value-when-no-national-appraisal-guide-exists.~~

~~(d)--For-real-property-and-improvements,-in-the-absence of-contradictory-market-data-information,--market--value--is considered-to-be-replacement-cost-depreciated.~~

(3) The department of revenue or its agents may not adopt a lower or different standard of value from market value in making the official assessment and appraisal of the value of property in 15-6-134 through ~~15-6-140~~ ~~15-6-137-and 15-6-139--through--15-6-141~~ 15-6-140, [SECTION 5], AND [SECTION 6]. For purposes of taxation, assessed value is the same as appraised value.

(4) The taxable value for all property in classes four ~~through-seven-and-classes-nine~~ through eleven, [SECTION 5], AND [SECTION 6] is the percentage of market value established for each class of property in 15-6-134 ~~through 15-6-137--and--15-6-139~~ through 15-6-141, [SECTION 5], AND [SECTION 6].

(5) The assessed value of properties in 15-6-131 through 15-6-133 is as follows:

(a) Properties in 15-6-131, under class one, are assessed at 100% of the annual net proceeds after deducting the expenses specified and allowed by 15-23-503.

(b) Properties in 15-6-132 under class two are assessed at 100% of the annual gross proceeds.

(c) Properties in 15-6-133 under class three are assessed at 100% of the productive capacity of the lands

when valued for agricultural purposes. All lands that meet the qualifications of 15-7-202 are valued as agricultural lands for tax purposes.

~~(d)--Properties-in-15-6-130,--under--class--eight,--are assessed--at--100%--of--the--combined-appraised-value-of-the standing-timber-and-grazing-productivity.~~

(6) Land and the improvements thereon are separately assessed when any of the following conditions occur:

(a) ownership of the improvements is different from ownership of the land;

(b) the taxpayer makes a written request; or

(c) the land is outside an incorporated city or town.

(7) The taxable value of all property in 15-6-131 and classes two, ~~and~~ AND three, ~~-and-eight~~ is the percentage of assessed value established in 15-6-131(2), 15-6-132, ~~and~~ AND 15-6-133, ~~-and-15-6-130~~ for each class of property."

~~Section-14.--Section--15-16-611,--MCA,--is--amended--to read:~~

~~"15-16-611.--Reduction-of--property--tax--for--property destroyed--by--natural--disaster.----(1)--The--department--of revenue-shall,-upon-showing-by-a-taxpayer-that-some--or--all of--the--improvements--on--his-real-property-or-a-trailer-or mobile-home--[as--described--in--15-6-134(1)(c)]--have--been destroyed-to-such-an-extent-that-such-improvements-have-been rendered--unsuitable--for--their--previous--use--by--natural~~

~~disaster,-adjust-the-tax-due-and--payable--for--the--current year---on--the--property--under--15-16-102--as--provided--in subsection-(2)-of-this-section.~~

~~(2)--To-determine-the-amount-of-tax-due--for--destroyed property,--the-county-treasurer-shall-multiply-the-amount-of tax-levied-and-assessed-on-the-property-for-the-year-by--the ratio--that-the-number-of-days-in-the-year-that-the-property existed-before-destruction-bears-to-365.~~

~~(3)--This-section-does-not-apply--to--delinquent--taxes owed--on-the-destroyed-property-for-a-year-prior-to-the-year in-which-the-property-was-destroyed.~~

~~(4)--For--the--purposes--of--this---section,---"natural disaster"--includes--but--is--not--limited--to--fire,-flood, earthquake,-or-wind."~~

Section 8. Section 15-23-202, MCA, is amended to read:

"15-23-202. Assessment -- how made. (1) The department must assess the franchise, roadway, roadbed, rails, rolling stock, and all other operating properties of all railroads operated in more than one county or more than one state. All rolling stock must be assessed in the name of the person owning, leasing, or using the same. Assessment must be made to the person owning or leasing or using the same and must be made upon the entire railroad within the state. The depots, stations, shops, and buildings erected upon the space covered by the right-of-way and all other property

owned or leased by such person, except as above provided, shall be assessed by the department.

(2) In determining the taxable value of railroad property, the department ~~may--modify~~ shall determine the percentage ~~multiplier~~ rate "R" provided for in ~~15-6-141~~ 15-6-140 [SECTION 5] in order to achieve compliance with the requirements of the federal Railroad Revitalization and Regulatory Reform Act of 1976, as amended."

~~Section-16.--Section-15-7-111,-MCA,-is-amended-to-read:~~

~~"15-7-111.--Periodic--revaluation--of-taxable-property.~~ ~~The (1)-Except-as-provided-in-subsection-(2),-the~~ department ~~of-revenue-shall-administer-and-supervise-a-program-for--the revaluation--of--all--taxable--property--within-the-state-at least--every--5--years.--A--comprehensive--written--plan--of rotation--shall--be-promulgated-by-the-department-fixing-the order-of-revaluation-of-property-in-each-county-on-the-basis of-the-last-revaluation-of-taxable-property-in--each--county prior--to--July--1,-1974,-in-order-to-adjust-the-disparities therein-between-the--counties.---The--plan--of--rotation--so adopted-shall-provide-that-all-property-in-each-county-shall be--revalued-at-least-every-5-years-or-that-no-less-than-20% of-the-property-in-each-county-shall--be--revalued--in--each year.--The--department--shall-furnish-a-copy-of-the-plan-and all-amendments-thereto-to-each-county-assessor-and-the-board of-county-commissioners-in-each-county.~~

~~(2)--All-property-in-class-four,-class-nine,-class-ten,~~
~~and-class-eleven-shall-be-revalued-annually-under-a--program~~
~~developed,--administered,-and-supervised-by-the-department."~~

Section 9. Section 15-8-104, MCA, is amended to read:

"15-8-104. Department audit of taxable value -- costs of audit paid by department. (1) When in the judgment of the director of revenue it is necessary, audits may be made for the purpose of determining the taxable value of net proceeds of mines and oil and gas wells and all other types of property subject to ad valorem taxation.

(2) The department of revenue shall conduct audits of the assessment of ALL COMMERCIAL PERSONAL property ~~in-class four-and-class-nine~~ to assure that the value of the property in those classes reflects market value. BECAUSE THE ASSESSED VALUE OF COMMERCIAL PERSONAL PROPERTY IS DEFINED AS MARKET VALUE UNDER 15-8-111(2), THE AUDITS CONDUCTED BY THE DEPARTMENT SHALL BE PRIMARILY DIRECTED TOWARD ENSURING THAT ALL TAXABLE PERSONAL PROPERTY IS REPORTED TO THE DEPARTMENT.

~~(2)~~(3) The cost of ~~the~~ any audit performed under subsection (1) or (2) shall be paid by the department."

~~NEW-SECTION.--Section-10.--Repealer.--Section-15-6-142,~~
~~MCA,--is-repealed.~~

NEW SECTION. Section 10. ~~Extension~~ RULEMAKING AUTHORITY -- EXTENSION of EXISTING authority. (1) THE DEPARTMENT OF REVENUE SHALL ADOPT RULES SPECIFYING WHICH

TYPES OF PROPERTY WITHIN THE SEVERAL CLASSES ARE CONSIDERED "COMPARABLE PROPERTY" AS DESCRIBED IN 15-1-101.

(2) THE DEPARTMENT SHALL ALSO ADOPT RULES SPECIFYING THE METHODOLOGY TO BE USED IN CONDUCTING SALES ASSESSMENT RATIO STUDIES AND IN DETERMINING THE VALUE-WEIGHTED MEAN SALES ASSESSMENT RATIO FOR ALL COMMERCIAL AND INDUSTRIAL REAL PROPERTY AND IMPROVEMENTS.

(3) Any existing authority of the department of revenue to make rules on the subject of the provisions of this act is extended to the provisions of this act.

~~(2)~~(4) The department may initiate rulemaking proceedings under this section on or after the date on which this act is passed and approved, but no rule adopted under this section may be made effective before January 1, 1986.

NEW SECTION. Section 11. Severability. If a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. Section 12. Effective dates. (1) This act, except section ~~9~~ 10 and this section, is effective January 1, 1986.

(2) Section ~~9~~ 10 and this section are effective on passage and approval.

-End-